[redacted]

(17,955.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 470.

MARTHA J. SWERINGEN, PLAINTIFF IN ERROR,

vs.

THE CITY OF ST. LOUIS.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

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a Supreme Court of the United States, October Term, 1900.

MARTHA J. SWERINGEN, Plaintiff in Error,
vs.
THE CITY OF ST. LOUIS and JUSTIN E. JOY, Defendants in Error. } No. —.

Comes now Martha J. Sweringen, plaintiff in error, by her counsel, and respectfully represents that she feels herself to be aggrieved by the proceedings and judgment of the supreme court of the State of Missouri in the above-entitled cause, and assigns error thereto as follows:

1. The court erred in said cause in deciding that the court below erred in admitting the patent to Louis Labeaume or his legal representatives in evidence as any evidence of title to the land in suit in said cause.

2. The court erred in said cause in construing the United States patent to Louis Labeaume and in deciding that the patent to Louis Lebeaume or his legal representatives did not purport to convey the land in suit in said cause.

3. The court erred in said cause in deciding that said Louis Labeaume was not a riparian owner, and that his heirs or grantees could not recover the tract of land in suit as an accretion in said cause.

4. The court erred in said cause in deciding that the plaintiff in error had no paper title to the land in suit in said cause.

5. The court erred in said cause in deciding that the court below erred in overruling the objections of defendants to the patent to Louis Labeaume or his legal representatives as irrelevant and immaterial and not tending to support the issue in said cause
b and not showing the plaintiff was a riparian owner and admitting said patent in evidence in said cause.

6. The court erred in said cause in deciding that there was no evidence to sustain the judgment of the court below in said cause.

7. The court erred in said cause in reversing the judgment of the court below in said cause.

8. The court erred in said cause in rendering judgment in favor of the defendants in said cause.

Wherefore the said plaintiff in error prays the honorable court to examine and correct the errors assigned and for a reversal of the judgment of the supreme court of the State of Missouri entered in the above-entitled cause, and for an affirmance of the judgment of the court below, the circuit court of the city of St. Louis, Missouri, in said cause.

MARTHA J. SWERINGEN,
By E. P. JOHNSON,
THOS. A. RUSSELL,
G. A. FINKELNBURG,
Her Attorneys.

[Endorsed:] No. —. Supreme Court of the United States. Martha J. Sweringen, pl'ff in error, *vs.* The City of St. Louis, def't in error. Assignment of error.

c UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Missouri, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of the State of Missouri, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between Martha J. Sweringen, plaintiff and respondent, and The City of St. Louis and Justin E. Joy, defendants, and the said City of St. Louis, appellant, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States and the decision was against their validity, or wherein was drawn in question the validity of a statute of or an authority exercised under said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity, or wherein was drawn in question the construction of a clause of the Constitution or of a treaty or statute of or commission held under the United States and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said Martha J. Sweringen, as by her complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington within thirty days from the date hereof, in the said Supreme Court of the United States, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville Weston Fuller, Chief Justice of the Supreme Court of the United States, this third day of October, in the year of our Lord one thousand nine hundred.

Seal of the United States Circuit Court, Central Division, for the Western District of Missouri.

Issued at office, in the city of Jefferson, with the seal of the circuit court of the United States for the central division of the western judicial district of Missouri, dated as aforesaid.

H. C. GEISBERG,
Clerk of said Circuit Court.

Allowed by—
JAMES B. GANTT,
Judge and Chief Justice of the Supreme Court of the State of Missouri.

d *Return to Writ.*

STATE OF MISSOURI, ss:

In obedience to the command of the within writ I herewith transmit to the Supreme Court of the United States a duly certified transcript of the record and proceedings in the within-entitled cause, together with all things concerning the same.

Seal of the Supreme Court of Missouri.

In witness whereof I hereto subscribe my name and affix the seal of said supreme court of Missouri, at the city of Jefferson, this 23rd day of October, A. D. 1900.

JNO. R. GREEN, *Clerk.*

[Endorsed:] Filed Oct. 3, 1900. Jno. R. Green, clerk.

e The United States of America to The City of St. Louis, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States, at the city of Washington, thirty days from and after the day this citation bears date, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Missouri, wherein Martha J. Sweringen is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done the parties in that behalf.

Witness the Honorable James B. Gantt, chief justice and judge of the supreme court of the State of Missouri, this third day of October, in the year of our Lord one thousand nine hundred.

JAMES B. GANTT,
Chief Justice and Judge of the Supreme Court of the State of Missouri.

f Service of this citation on the fourth day of October, 1900, is hereby acknowledged.

B. SCHNURMACHER,
City Counselor of City of St. Louis, Being Within-named Def't in Error.

[Endorsed:] No. —. United States Supreme Court. Martha J. Sweringen, pl'ff in error, *vs.* The City of St. Louis, def't in error. Citation. Filed Oct. 3, 1900. Jno. R. Green, clerk.

1 STATE OF MISSOURI, *sct:*

Be it remembered that heretofore, to wit, on the 29th day of March, 1897, there was filed in the office of the clerk of the supreme court of the State of Missouri a transcript wherein Martha J. Sweringen was respondent and The City of St. Louis was appellant; which said transcript is in words and figures as follows, to wit:

STATE OF MISSOURI, } ss:
City of St. Louis, }

Be it remembered that heretofore, to wit, on the sixteenth day of April, A. D. 1895, there was filed in the office of the clerk of the circuit court, city of St. Louis, within and for the city and State aforesaid, a petition in a certain cause wherein Martha J. Swearingen is plaintiff and The City of St. Louis and Justic E. Joy are defendants:

The said petition is in words and figures as follows, to wit:

STATE OF MISSOURI, } ss:
City of St. Louis, }

In the Circuit Court for the City of St. Louis, June Term, 1895.

MARTHA J. SWEARINGEN, Plaintiff, }
vs.
CITY OF ST. LOUIS and JUSTIN E. JOY, Defendants. }

Plaintiff states that the defendant, City of St. Louis, is and was at the times hereinafter mentioned a municipal corporation under the laws of this State, and that on the 9th day of April, 1891, she was entitled to the possession of the following-described premises, situate in said city, to wit: Beginning at a point in the southern line of Buchanan street at the northeast corner of city block No. 2544 of said city, thence southwardly along the eastern line of said block to the southeast corner thereof; thence westwardly along the southern line of said block 150 feet to the southeast corner of city
1½ block No. 660 E. of said city; thence south-ardly to the northeast corner of city block No. 661 E. of said city; thence southwardly along the eastern line of said last-named block to the southeast corner of the same, in the northern line of Branch street extended to the Mississippi river, to said river; thence northwardly along said river to the southern line of said Buchanan street extended to said river, and thence westwardly along the southern line of said Buchanan street extended to said river to the point of beginning; and, being so entitled to the possession thereof, that the defendants afterwards, to wit, on the day and year aforesaid, entered into such premises and unlawfully withhold from the plaintiff the possession thereof, to her damage in the sum of five thousand dollars. She further avers that the value of the monthly rents and profits of said premises is one hundred dollars.

Wherefore she demands judgment for the recovery of the premises and five thousand dollars damages for the unlawful withholding of the same from the plaintiff, and one hundred dollars for monthly rents and profits from the rendition of judgment until the possession of the premises is delivered to plaintiff, and for other proper relief.

THOS. A. RUSSELL AND
E. P. JOHNSON,
Attorney- for Plff.

Upon the filing of the said petition a writ of summons for the defendants was issued from the office of the clerk of the said court and delivered to the sheriff of the city of St. Louis, and was thereafter returned by the said sheriff duly executed as to both defendants.

And afterwards, at the June term, 1895, of said court, the following proceedings were had in said cause, to wit:

MONDAY, *June 3rd*, 1895.

MARTHA J. SWEARINGEN
vs.
CITY OF ST. LOUIS ET AL., E. JOY. } (99865.)

2 *Separate Answer of The City of St. Louis Filed and Separate Answer of Justin E. Joy Filed.*

Which answer of defendant Joy is in words and figures as follows, to wit:

MARTHA J. SWEARINGEN
vs.
CITY OF ST. LOUIS & JUSTIN E. JOY.

Comes now the defendant Justin E. Joy, and for his separate answer to the petition herein denies each and every allegation therein contained.

H. M. POLLARD,
Att'y for Def't Joy.

And afterwards, at the February term of said court, the following further proceeding was had in said cause, to wit:

THURSDAY, *March 12th*, 1896.

MARTHA J. SWEARINGEN
vs.
CITY OF ST. LOUIS ET AL. } (99865.)

Separate Answer of City of St. Louis Filed by Leave and by Consent.

Which answer is in words and figures as follows, to wit:

In the Circuit Court, City of St. Louis, State of Missouri, Room 6.

MARTHA J. SWEARINGEN, Plaintiff,
vs.
JUSTIN E. JOY and THE CITY OF ST. LOUIS. } No. 99865.

3 Now comes the defendant The City of St. Louis and, by leave of court first obtained, files this its separate answer to the petition of plaintiff, and for such answer denies each and every allegation in said petition contained.

And for a further answer to said petition this defendant avers that it has had open, notorious, continuous, and adverse possession of the

premises described in said petition under claim and color of title for more than ten years next before the filing of said petition; and for a further answer to said petition this defendant avers that the property described in plaintiff's petition has been in adverse use and occupancy of this defendant, The City of St. Louis, as a public wharf of said city for a period of more than ten years prior to the filing of said petition, and said land has been held by the city of St. Louis and has been used by the public as such public wharf during said period of time, and said plaintiff has acquiesced in said public use and is estopped to deny the same.

And for a further and separate answer and defense this defendant says that neither the plaintiff nor her ancestor, predecessor, grantor, or the person under whom she claims was seized or possessed of the premises described in the petition and in question in this case within ten years before the commencement of this action.

Wherefore this defendant, The City of St. Louis, prays to be hence dismissed with its costs.

W. C. MARSHALL,
CHAS. CLAFLIN ALLEN,
Att'ys for Def't City of St. L.

And afterwards, at the said February term, 1896, of said court, the following further proceeding was had in said cause, to wit:

MONDAY, *March 16th*, 1896.

MARTHA J. SWEARINGEN
vs. } 99865. Reply Filed.
CITY OF ST. LOUIS ET AL.

Which reply is in words and figures as follows, to wit:

4 In the Circuit Court for the City of St. Louis, February Term, 1896.

MARTHA J. SWEARINGEN, Pl'ff,
vs.
CITY OF ST. LOUIS ET AL., Def'ts.

Plaintiff, for reply to the new matter set up in the separate answer of the City of St. Louis herein, denies each and every allegation therein contained.

E. P. JOHNSON &
L. BELL, *Att'ys for Pl'ff.*

And afterwards, at the October term, 1896, of said court, the following further proceedings were had in said cause, to wit:

WEDNESDAY, *December 2nd*, 1896.

MARTHA J. SWEARINGEN
vs. } 99865.
CITY OF ST. LOUIS and JUSTIN E. JOY.

Now, at this day, this cause coming on to be heard and a jury being waived and the cause submitted to the court on the pleadings

and evidence and arguments of counsel for the respective parties, the court thereupon finds the issues in favor of the plaintiff and doth order, adjudge, and decree that the plaintiff recover of defendants the possession of the following-described premises, in the city of St. Louis, Missouri, bounded on the east by the Mississippi river, on the west by a line coincident with the alleged western boundary of the wharf as set forth in ordinance 5403, which line is 90 feet and 9¼ inches in length along northwardly with said alleged wharf line and commences at a point 60 feet and 6¼ inches north of the intersection of the north line of Dock street produced to the river and 60 feet and 6¼ inches north of the same, and on the north by a line parallel to the south line and 90 feet therefrom, and that said plaintiff also and further recover damages of the defendant
5 The City of St. Louis in the sum of five thousand dollars for the detention of said property during the five years preceding the date of this judgment, and the value of the monthly rents and profits of said property, which is found and established to be the sum of one hundred dollars, and that plaintiff recover her costs in the premises and have execution for the same and the above amounts and a writ of possession for the property.

THURSDAY, *December 3d*, 1896.

MARTHA J. SWEARINGEN
vs.
CITY OF ST. LOUIS and JUSTIN E. JOY. } 99865.

Defendant City of St. Louis' motion for new trial filed. Defendant Justin E. Joy's motion for new trial filed.

And afterwards, at the December term, 1896, of said court, the following further proceedings were had in said cause, to wit:

MONDAY, *December 15th*, 1896.

MARTHA J. SWEARINGEN
vs.
CITY OF ST. LOUIS ET AL. } 99865.

It is ordered by the court that the motion for a new trial heretofore filed herein be overruled.

TUESDAY, *December 29th*, 1896.

MARTHA J. SWEARINGEN
vs.
CITY OF ST. LOUIS ET AL. } 99865.

Now, at this day, comes defendant City of St. Louis and presents to the court its bill of exceptions, which is signed and sealed by the court, filed herein, and made a part of the record herein; said defendant thereupon files its affidavit for appeal and its appeal and its appeal bond, which is approved by the court, and, on its motion, an

appeal is allowed it from the judgment herein to the supreme court of the State of Missouri.

6 Which bill of exceptions is in words and figures as follows, to wit:

In the Circuit Court, City of St. Louis, February Term, 1896.

MARTHA J. SWEARINGEN
vs.
CITY OF ST. LOUIS ET AL. } No. 99865.

MARTHA J. SWEARINGEN
vs.
ST. LOUIS, KEOKUK & NORTHWESTERN RAILROAD CO. } No. 99866.

Appearances: Leverett Bell, Esq., and E. P. Johnson, Esq., for plaintiff, and John H. Drabelle, Esq., and E. S. Robert, Esq., for St. L., K. & N. W. R. R. Co.; Chas. Claflin Allen, Esq., for City of St. Louis, and H. M. Pollard, Esq., for Justin E. Joy.

Be it remembered that on this 17th day of March, 1896, the above-entitled causes coming on to be heard before his honor John M. Wood, presiding as judge in the circuit court of the city of St. Louis and State of Missouri, in court-room No. 6, without a jury, a jury having been waived by consent of all the parties in open court, the following proceedings were had:

The plaintiff, to sustain the issues on his part, introduced evidence as follows:

It was agreed by all the parties, the court consenting thereto, that both of the above-entitled causes should be tried together.

ROBERT E. COLLINS, being duly sworn on behalf of plaintiff, testified as follows:

Direct examination by E. P. JOHNSON, Esq.:

Q. What is your name?
A. Robert E. Collins.
Q. What is your business?
A. Attorney-at-law.
Q. You were acquainted with Mary L. Tyler?
A. I was during her lifetime.

7 Q. And the Buchanan family?
A. I didn't know the Buchanan family.

Q. You are engaged in handling Mrs. Tyler's property, are you not?
A. I was attorney for Mrs. Tyler in some respects.
Q. That is adjoining Buchanan's on the south?
A. I think it is on the north. Buchanan's is on the north of Mrs. Tyler. In city block #308 east, 660 west, 660 east, and 2544—in those blocks I represented Mr. Tyler.

Mr. ROBERT: We object to that as irrelevant and immaterial to the issues of this case.

COURT: Objection overruled.
To which ruling the defendants then and there duly excepted.
WITNESS: I represented Mrs. Tyler with respect to certain property in each of those city blocks—property she owned—and — respect to which I represented her.

Q. What else were there in this block?
A. In city block 308 east, being lots.

Mr. ALLEN: I object to that. It is a conclusion of the witness, stating what blocks Mrs. Tyler owned.
COURT: I do not think he can testify about the ownership of the property.

Q. What were you doing, with reference to this property, for Mrs. Tyler?

Mr. ALLEN: There again we object as irrelevant and immaterial, because the question does not relate to any property in controversy in this case.
COURT: Objection overruled.
Mr. ALLEN: We save an exception.

WITNESS: I was employed by Mrs. Tyler to cause the removal of a number of squatters that were upon this property.
Q. What were the number of the lots?

Mr. ALLEN: We object to that as immaterial, for the same reasons as before.
8 COURT: Objection overruled.
To which ruling defendants then and there duly excepted.

Ans. They were lots 30, 31, and 32, and a strip of 120 feet wide from the north to the south, running from the eastern boundaries of lots 30, 31, and 32, city block 308 east, to the bank of the Mississippi river. The land bound the south line of that strip by a line being a prolongation of the division line as between lots 32 and 33, being a prolongation of the division line between lots 32 and 33, in city block 308 east.

Mr. ROBERT: That is getting in what your honor indicated would be ruled out.

Q. What were the numbers of the lot- immediately north of that?
A. I do not know.
Q. Have you them on a plat?
A. No; I have not.
Q. What were the negotiations on the block north?
A. I had no negotiations with any one on the block north.
Q. I mean the lot north of the Tyler's, not the block.
A. Personally I had no negotiations with any one.
Q. I will ask you, Mr. Collins, what was the result of these negotiations that you have there in your hand.
A. This paper was handed to me by Silas Bent, who was the agent and representative of Mrs. Tyler in this city. Mrs. Tyler lived in

Louisville, Ky., and her son-in-law represented her in this city. Captain Bent handed me these papers.

Mr. BELL: Is that an agreement between the Tyler heirs and the Buchanan?

Mr. ROBERT: The paper will speak for *itself*. We prefer to have the paper speak for itself.

Mr. ALLEN: Do you undertake to be bound by that paper—be bound?

Mr. JOHNSON and Mr. BELL: Certainly, we will concede that.

Mr. ALLEN: You concede you are bound by that paper and plat?

Mr. JOHNSON: Yes; we will concede that.

9 Q. Let Mr. Collins read the paper.

Mr. Collins reads paper.

Mr. JOHNSON: We will offer the paper in evidence.

Which was read; which is as follows:

(Here follows map marked p. 9.)

10 Objected to as incompetent, irrelevant, and immaterial, because it is not between parties to this suit or any of them, or between any party to this suit and any other person, and because it does not relate to the property here sued for.

Objection overruled; to which ruling defendants duly excepted at the time.

The COURT: Designate it by name.

WITNESS: It is an abstract of title gotten up by J. G. McClellan, and endorsed on one of the places is an agreement.

Q. Called Exhibit "A"?

WITNESS: You may call it what you please. You may use it here, but I will not part with my right to immediate possession of it at any time.

Taken subject to the leave of the gentleman.

WITNESS: It is an important matter of the title in the Tyler estate. I cannot afford to let it go out of my possession. I will certainly leave it with the court for a week, if necessary.

Q. I ask you to state to what point did Mrs. Tyler continue to occupy as long as you knew anything about it, as described on that plat or claim.

Mr. ALLEN: We object to that.

COURT: Objection sustained.

Mr. BELL: He can state what was done on any part of the Tyler estate?

COURT: I want the facts; let him describe what was done.

Ans. I went on this property a number of times, and when I first went there I found a number of people living in various shanties, some of them little river boats, and I have time and time again removed them from the Tyler property.

Q. Not the Swearingen property?

Exhibit A

It is agreed between Silas Bent & Wm. M. McPheeters that there division line is to be at a point on the West line of Main St. Two hundred and seventy feet north of the north line of Dock Street and said line to run eastwardly parallel with the north line of said Dock Street to the Mississippi river. St Louis, April 3rd, 1873.

Mary L. Tyler by Silas Bent.

Sallie B. M. Fuller, Mary B. Scott & Julia Crosby by W. M. McPheeters.

No. 4710 - Surviving Administrator, et al. } p. 9

A. I will come to that presently. I do not think I had to
11 institute more than one or two suits against them. Uniformly they made no claim; said they had no claim to the title of the property.

Mr. ROBERT: We object to that. State the facts; he is stating what people told him on the property.

COURT: The objection to what people told Mr. Collins will be sustained.

Q. State at what point on that plat you operated for Mrs. Tyler in regard to that property.

Mr. ROBERT: Question objected to as being incompetent, irrelevant, and immaterial, as not relating to the parties or property involved in this suit.

COURT: Objection overruled.

To which ruling defendants excepted at the time.

A. Along the whole piece of property that I have heretofore described in my testimony.

Q. How long had you been attending to this matter in behalf of Mrs. Tyler?

A. I think it must have been over eight years, at least. The people that I would remove sometimes would move right back, and if they did not move back others would come in their place. Messrs. Farrar & Tate employed my firm to perform some service with respect to the piece of property lying immediately south of the Tyler property. I think their strip was 90 feet wide and bounded the Tyler property on the south line a year or two years ago.

Mr. ALLEN: We object to that as being immaterial and irrelevant.

Objection overruled; to which ruling defendants duly excepted at the time.

Q. During all this time you were exercising acts over this property in behalf of Mrs. Tyler her property was up to that north line of that plat—the piece described on that plat—which you spoke of?

A. Yes, sir.

Q. That, you say, was continued for you for ten or twelve years or eight or ten years?

A. From eight to twelve years.

12 Q. Was any interference attempted by any person on the north when you were exercising charge of this land?

Mr. ALLEN: We object to that question as irrelevant and incompetent, as not relating to the parties or property involved in this case.

COURT: Objection overruled.

To which defendants duly excepted at the time.

A. No; excepting the single instance of a man by the name of Liebke, whom I found in possession.

COURT: You are talking about the Tyler property?

A. Yes; I found a man — Liebke. He had some inclosures on part of this, and I filed a suit in ejectment in behalf of the Tyler es-

tate, which is the successor of Mrs. Tyler, against Liebke. He had a lot of logs piled there. I understand he runs a planing mill and had a lot of logs piled on this portion of the Tyler property.

Q. This property in suit that is marked Swearingen on the plat there, the 90 feet, what did you do with reference to that property, and when?

Mr. ALLEN: We object to the question as being immaterial.
COURT: Objection overruled.
To which ruling defendant excepted.

A. I think possibly two years ago. M-rs. Farrar & Tate, who claimed to be the agent of Mrs. Swearingen, wrote us to clear the squatters off this 90-foot strip. (Witness indicates strip marked Swearingen on plat of Exhibit "A.")
Mr. ALLEN: When was that?
A. About two years ago.

Mr. ALLEN: We object to that question for the reason that the defendants were not in possession of that property.
COURT: Objection overruled.
To which ruling defendants excepted.

Q. Indicate at what points on this 90-foot lot by the plat that you did these matters.

13 MRS. ALLEN: We object for same reason. Defendants were not in possession of the property.
COURT: Objection overruled.
To which ruling defendants objected at the time.

A. I do not think I found any squatters on this city block 308 at all, but I did on the edge of the other block lying to the east of block 308.

Mr. BELL:

Q. Did you find any on the property sued on in this case?

Mr. ALLEN: We object.

Ans. I do not know what property is sued for.
Q. East of block 2544 to the river.

Mr. ROBERT: We object to the question on the ground it is incompetent and irrelevant and on the ground it took place after the city was in possession.
COURT: Objection sustained.
COURT: In regard to this abstract left with the court?
Mr. JOHNSON: Only the plat with the endorsement that we care to use at all.
WITNESS: That is the part I did not want to lose. I will have a copy made.

Cross-examination.

By CHAS. CLAFLIN ALLEN, Esq.:

Q. You said something about Mr. Liebke; where was Mr. Liebke at that time—where was his fence and where were his logs, as near as you can tell?

A. On part of block 660 west. I do not recollect whether it went onto 660 east or not, but surely was on block 660 west.

Q. How far south?

A. I cannot tell that. It was a very irregular-shaped piece of ground.

Mr. ROBERT: Didn't it go to Dock street?

A. No, sir.

Mr. ALLEN: What is the best of your recollection that you
14 have about that, Mr. Collins—how far south?

A. My best recollection is it went to the division line between what is here designated as Mrs. Martha Swearingen's tract and Mary L. Tyler. It possibly may have run a very few feet on the Swearingen tract.

Q. When was that? When was it that this Liebke was in possession in the way you have described?

A. I do not know.

Q. When was the time when you first knew that Liebke made a claim?

A. It was possibly four years ago—three or four years ago.

Q. Don't you know how he claimed it?

A. Simply in this: My attention was drawn to it by change in the assessment.

Q. What you are testifying to here—this occurred the last few months?

A. Within the last four years.

Q. All you have testified to about Liebke is within the last four years?

A. Yes, sir.

Mr. DRABELLE: You brought suit in behalf of the Tyler estate to recover possession of that property from Liebke?

A. Yes, sir.

Mr. BELL: What was the result?

A. It is still pending.

Mr. JOHNSON: We will begin the record evidence.

First, the United States patent—the patent from the United States to Labeaume, by his legal representative, dated March 25th, 1852. I will say to your honor this patent is very old and has been used a great deal, and some of the lines are so light it is hard to read. Recorded in Book 188, page 1, of the recorder's office. I will read parts of it. It is not worth while to read it all.

Mr. ALLEN: We object to the patent as irrelevant and immaterial and not tending to support the issues in this case and not showing the plaintiff was a riparian owner.

COURT: Objection overruled.

15 To which ruling defendant excepted at the time.

Said patent was read as follows:

The United States of America to all to whom these presents shall come, Greeting:

Whereas, there has been deposited in the General Land Office a patent certificate number one thousand two hundred and forty-nine of the recorder of land titles at St. Louis, Missouri, whereby it appears that on the fifteenth day of February, one thousand seven hundred and ninety-nine, Zenan Trudeau, lieutenant governor of the Spanish province of Upper Louisiana, made a concession of about three hundred and sixty arpen-s of land to Louis Labeaume, and that on the second day of March of the same year, it was surveyed by Antoine Soulard, surveyor of the same province to the amount of three hundred and seventy-four arpents, situated three miles north of the town of St. Louis, and that the board of commissioners appointed *appointed* in pursuance of the fifth section of the act of Congress approved the second day of March, one thousand eight hundred and five, entitled "An act for ascertaining and adjusting the titles and claims to land, within the Territory of Orleans and the district of Louisiana," confirmed on the twenty-second day of September, one thousand eight hundred and ten three hundred and fifty-six arpents to Louis Labeaume, agreeably to the aforesaid concession; and that on the fourteenth day of June, one thousand eight hundred and eleven, they issued their certificate numbered nine hundred and eighty-two for that confirmation under the fourth section of the act of Congress approved the third day of March, one thousand eight hundred and seven, entitled An act respecting claims to land in the Territories of Orleans and Louisiana.

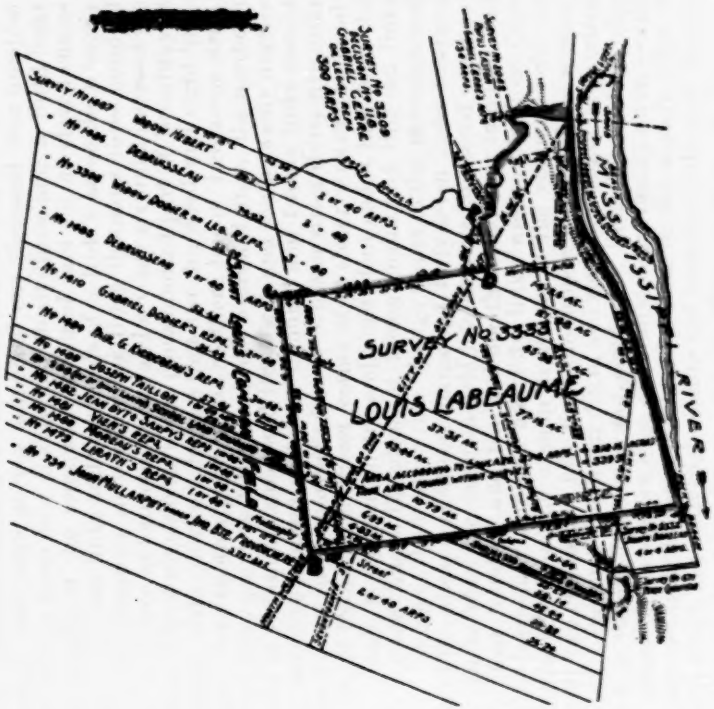
And whereas, it further appears from the aforesaid patent certificate that pursuant to the decision of the twenty-fifth day of July, one thousand eight hundred and fifty-one of the Secretary of
16 the Interior, those claiming under Labeaume are entitled to a patent for the land according to Soulard survey, and Labeaume's possession, and that the lines of the said Soulard's survey have been retraced in conformity with the decision referred to as appears from the plat and transcript of survey numbered three thousand three hundred and thirty-three, which accompan*ying* said patent certificate, the said plat and transcript survey having been authenticated by M. Lewis Clark, surveyor general of Illinois and Missouri under date twenty-sixt*y* of February, one thousand eight hundred and fifty-two; which said survey number three thousand three hundred and thirty-three contains three hundred and thirty-nine acres, and sixth-eight-hundredths of an acre, being situated in township forty-five, north of the base line, of range seven east of the fifth principal meridian, in the State of Missouri, and which is platted, and described as follows, to wit:

(Here follows map marked p. 16.)

SURVEY No 3333. T. 45 N. R. 7 E. 5TH PR MN

[redacted]

No 4570.
Surveying Co. 16
St Louis



said patent was read as follows:

The United States of America to all to whom these presents shall come, Greeting:

Whereas, there has been deposited in the General Land Office a patent certificate number one thousand two hundred and [illegible] of the recorder of land office at St. Louis, Missouri, whereby it appears that on the twenty-ninth day of February, one thousand eight hundred and [illegible], Serain Trudeau, [illegible] governor of the Spanish [illegible] Upper Louisiana, under a commission of the date three hundred and [illegible] square of land to Louis Lutenegger, and that on the seventh day of March of the same year it was surveyed by Antoine [illegible] surveyor of the said province to the quantity of three hundred and seventy-two arpents, situated [illegible] south of the town of St. Louis and that the usual [illegible] of possession appears to [illegible] of the [illegible] of the said province [illegible] and the [illegible] and the [illegible] and the

17 Begin at a stake set on the right bank of the Mississippi river between high and low water mark and on the extension line produced eastwardly from Lebeaume's southern ditch, the lower and most eastern corner of this survey, and the upper and most northern corner of the survey of Joseph Brazeau numbered three thousand three hundred and thirty-two, from which the northeast corner of the ruins of a stone house built by the late Martin Thomas for a distillery, &c., bears south fifty-seven degrees, and fifty-five minutes west, distant one hundred and twenty-nine links,—thence south seventy-four degrees and thirty minutes west, with the southerly boundary of this survey, and with the line of Labeaume's southern ditch, at four chains and twenty-three links a stone at the southeast corner of an enclosure,—at eight chains and fifty-six links, a stone at the southwest corner of an enclosure, at nine chains and seventy-two links a stone at the southeast corner of another enclosure,—at eleven chains intersects the eastern boundary of the St. Louis common field, and the eastern boundary of the lot in the said common field, being survey numbered one thousand four hundred and ten at a stone two chains and thirty-three and a third links northwardly of the southwest corner of said lot, at eleven chains and seventy-six links and two thirds of a link a stone the westerly corner of Brazeau's survey number three thousand three hundred and thirty-two, at fourteen chains and seventy-six links intersect the eastern line of edge stones to the macadamized part of Broadway at a point north thirteen degrees west two hundred and eight links distant from another point in the northern line of Labeaume street, which latter point is forty-two links westward from the northeast corner of Labeaume street and Broadway and south twenty degrees and forty-five minutes east, four hundred and twenty links distant from a point in the northern line of Webster street thirty-five links westward from the northeast corner of Webster street and Broad-
18 way, at fourteen chains and ninety-four and a half links the centre line of Broadway at fifteen chains and thirteen links intersect the western line of edge stones to the macadamized part of Broadway—at fifteen chains and forty-seven links intersect the line between the common field lots, surveys numbered one thousand four hundred and ten, and one thousand four hundred and eighty-four—four hundred and fifty links westwardly from their common corner on the eastern boundary of the common field—at twenty-two chains and fifty links the supposed place of the western and of Labeaume's southern ditch, and southern end of his western ditch, at twenty-five chains and eighty-five links the western edge of a stone on the eastern edge of Tenth street, at twenty-seven —and twenty-two links the eastern edge of a stone on the western edge of Tenth street, at twenty-eight chains and forty-five links a set stone—at thirty chains fifty-nine and a half links a set stone—at thirty-two chains and sixty-eight links intersect the line between the common field lots surveys numbered one thousand four hundred and eighty-four and one thousand four hundred and eighty-three at a large stone, twenty-one chains and sixty-four links westwardly from the common corner to said lots on the eastern boundary line of the

common field, at thirty-eight chains, fifty-six links intersect the southern line of the common field lot survey number one thousand four hundred and eighty-three at the northwest corner of the school lot survey number three hundred and seventy-nine (of St. Louis lands) twenty-seven chains and fifty-six links westwardly from the common corner of said surveys the eastern boundary of the common fields, said intersection is in the garden of Major Edward Dobyns at a point from which the southwestern corner of the main part of said Dobyns' house bears south seventy degrees east distant one hundred and twenty-three links, at forty chains and ten links, leave Dobyns' garden at forty chains eighteen and a half links a small set stone at forth chains and forty-eight links a large stone at forty-one chains and forty-two links a large set stone at forty-two
19 chains and sixty-two links a small set stone, at forty-three chains and ten links a long pond extending northwardly and southwardly, and fifty links wide, at forty-four chains and twenty links intersect the northern line of the common field lot, survey number one thousand four hundred and eighty-two at a large stone, being the most western corner of the aforesaid school lot number three hundred and seventy-nine, and thirty-three chains and twenty-seven links westwardly from the common corner to said lots on the eastern boundary of the common field, at forty-six chains and thirty-five links a large set stone, at forty-seven chains twenty-four and a half links a large set stone, at forty-nine chains and ninety-six links intersect the line between the common field lots surveys numbered one thousand four hundred and eighty-two, and one thousand four hundred and eighty-one at a large stone, thirty-nine chains and fourteen links westwardly from the common corner to said surveys on the eastern boundary of the common field, at fifty-one chains and thirty-two links a large set stone, at fifty-two chains and eighteen links a set stone seven links to the left of the line at fifty-five chains and seventy-four links intersect the lines between the common field lots surveys numbered one thousand five hundred and eighty-one, and one thousand four hundred and eighty at a limestone forty-five chains and four links westwardly from the common corner to said surveys on the eastern boundary of the common field, and from said intersection a white oak eight inches in diameter, bears north forty degrees east, distant fifteen links, and a red oak, eight inches in diameter, bears north fifty-nine degrees and thirty minutes west, distant ten links at sixty chains, eighty-three and a third links intersect Tyler's western fence, ten links northward of the southwest corner of his enclosure, at sixty-one chains and forty-eight links intersect the line between the common field lots, surveys numbered one thousand four hundred and eighty-
20 & 21 and one thousand four hundred and seventy-nine at a limestone, fifty chains and eighty-nine links westwardly from the common corner to said surveys on the eastern boundary of the common field, from said intersection the centre of the northern opening of the culvert across Mullanphy street bears south thirteen degrees and thirty minutes east distant fifty-two links, at sixty-three chains, and eight links intersect the line of water pipes in Mullan-

phy street, at sixty-four chains and thirty-three links intersect the line of water pipes in Seventeenth street at sixty-four chains and seventy-two links intersect James Clemen's fence on the west side of Seventeenth street, south fifteen degrees west and thirty-nine links distant from the northern corner of his lot, at sixty-seven chains and two links intersect the line between the common field lots surveys numbered one thousand four hundred and seventy-nine, and seven hundred and thirty-four, at a point fifty-six chains and seventy-four links westwardly from the common corner to said surveys on the eastern boundary of the common field, sixty-seven chains eight links and one-third of a link equal to twenty-three arpens, to a limestone thirty inches long, twelve inches wide, and ten inches thick, the most southern corner of this survey, thence north fifteen degrees and thirty minutes west, with the westerly boundary of this survey, at three and a half links intersect the line between the common field lots, surveys numbered seven hundred and thirty-four, and one thousand four hundred and seventy-nine at a point sixty-two chains and forty-three links eastwardly from the common corner to said surveys on the western boundary of the common field, at one chain and seventeen links intersect the northwestern boundary line of the city of St. Louis, at one chain eighty-three and a half links intersect Clemen's fence on the south side of Mullanphy street two chains and ninety-five links north, seventy-five degrees west from the corner of this enclosure at the southwest corner of Mullanphy and Seventeenth street-, at three chains
22 and forty links intersect the line between the common field lots surveys numbered one thousand four hundred and seventy-nine, and one thousand four hundred and eighty at a limestone sixty-one chains and seventy-one links south, seventy-five degrees and fifteen minutes east from the common corner to said surveys on the western boundary of the common field at six chains and seventy-seven links intersect the line between the common field lots surveys numbered one thousand four hundred and eighty, and one thousand four hundred and eighty-one at a point in a pond one hundred and fifty links wide, and sixty chains ninety-seven links south seventy-five degrees and fifteen minutes east from the common corner to said surveys on the western boundary of the common field, at ten chains eighteen links intersect the line between the common field lots surveys numbered one thousand four hundred and eighty-one, and one thousand four hundred and eighty-two at a limestone sixty chains and seven links south, seventy-five degrees and fifteen minutes east from the common corner to said surveys on the western boundary of the common field, at thirteen chains and sixty-one links intersect the northern line of the common field lot survey number one thousand four hundred and eighty-two, and the southern line of a lot heretofore assigned to the public schools of the city of St. Louis as survey number three hundred and eighty at a limestone set at Hanfield's southern fence fifteen and three-quarter links eastward of his southwest corner and fifty-nine chains and one link south seventy-five degrees and fifteen minutes east from the common corner to said surveys on the western

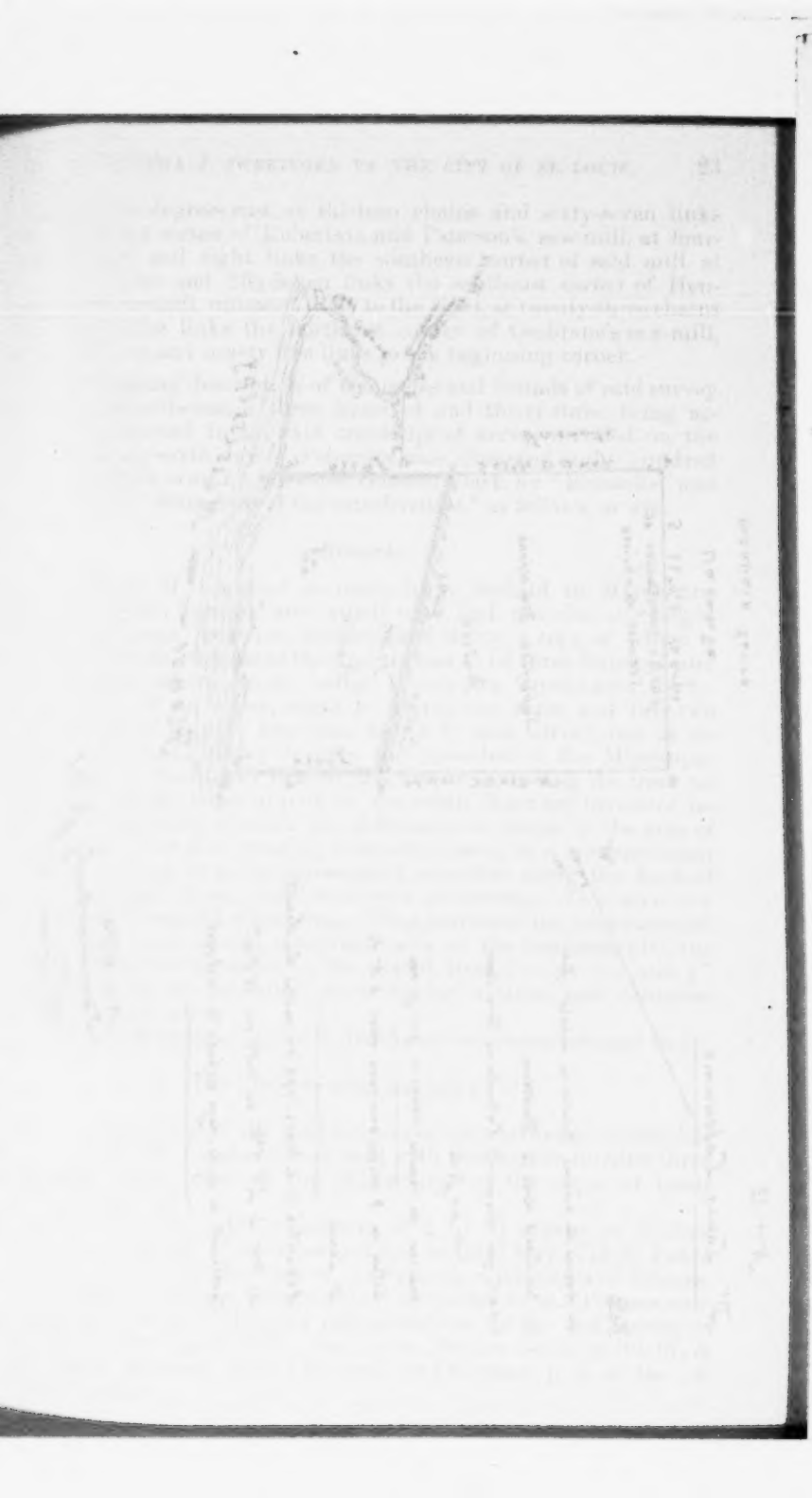
boundary of the common field at sixteen chains ninety-eight links intersect the northern line of said school lot, and the southern line of the common field lot survey number one thousand four hundred and eighty-three at a limestone fifty-eight chains and twenty-nine links south, seventy-five degrees and fifteen minutes east from the common corner to said surveys on the western boundary of the common field, at twenty chains and thirty-eight
23 links intersect the line between the common field lots surveys numbered one thousand four hundred and eighty-three, and one thousand four hundred and eighty-four at a limestone fifty-seven chains and forty-one links south seventy-five degrees and fifteen minutes east from the common corner to said surveys on the western boundary of the common field, and thirty-nine chains ninety-eight links north seventy-five degrees and fifteen minutes west from the intersection of said line with the southerly boundary of the survey at twenty-two chains and twelve links intersect the eastern jamb of the main front door to George Emerick's brick house twenty-six links westward of the southeast corner thereof, at thirty chains and forty-nine links intersect the line of the common field lots surveys numbered one thousand four hundred and eighty-four and one thousand four hundred and ten at a limestone, fifty-four chains and forty-four links south seventy-five degrees and fifteen minutes east from the common corner to said surveys on the western boundary of the common field, at thirty-seven chains and twenty-three links intersect the line between the common field lots surveys numbered one thousand four hundred and ten, and one thousand four hundred and eighty-five on the slope of a large sink-hole facing eastward and at a limestone fifty-two chains and sixty-eight links south seventy-five degrees and fifteen minutes east from the common corner to said survey on the western boundary of the common field, at forty-six chains sixty-six and two-third links, equal to sixteen arpens the place of the corner according to Soulard's call for his measurement of this line but this falls short of the northern boundary prolonged south seventy-four degrees and thirty minutes west in continuation of the old ditch which marks the position of said northern line therefor. Forty-seven chains and twenty-eight links to the intersection of the line of said prolongation of the old northern ditch, where set a limestone forty inches long, twelve inches wide and eight inches thick with the smallest end fourteen inches above the natural sur-
24 face of the ground for the most western corner of this survey, thence north seventy-four degrees and thirty minutes east, with the main northern boundary line of this survey, at one chain and ninety-seven links the most southern corner of survey number three thousand two hundred and nine in the name of Gabriel Cerré at an old large stone, at five chains and eighty-nine links intersect the line between the common field lots surveys numbered one thousand four hundred and eighty-five and three thousand three hundred and six and fifty-seven chains south seventy-five degrees and fifteen minutes east from the common corner to said survey on the western boundary of the common field, at six chains and twenty-three links the place of the former most western corner of this

survey made by Jas. C. Brown of this chain for Louis Labeaume and numbered two thousand nine hundred and seventy-four, at twenty-three chains and seventeen links intersect the line between the common field lots surveys numbered three thousand three hundred and six, and one thousand four hundred and eighty-six at an old stone seventy-four chains and three links south seventy-five degrees and fifteen minutes east from the common corner to said surveys on the western boundary of the common field, at twenty-seven chains and twelve links a stone at the intersection of the centre line of Wright street with "Twelfth street" (formerly Seventh street) and at an angle in the easterly side of the latter, at twenty-nine chains and four links, a stone, at twenty-nine chains and fifty links a stone, at thirty-one chains and sixty-nine links a stone on the west side of "Eleventh" (formerly Sixth) street, at thirty-two chains and ninety-one links a stone on the east side of said Eleventh street, at thirty-four chains and thirty-six links the east side of the old road, about the place of the western end of Labeaumme's northern end of his western ditch, at thirty-five chains thirty-four links intersect the line between the common field lots surveys numbered one thousand four hundred and eighty-six, and one thousand four hundred and eighty-
25 seven at a limestone, ninety chains south seventy-five degrees and fifteen minutes east from the common corner to said surveys on the western boundary of the common field, and from said intersection a sycamore, twenty-four inches in diameter bears south seventy-five degrees and fifteen minutes east, distant two and a half links, at thirty-five chains and seventy-two links intersect the northwestern boundary line of the city of St. Louis at a point six chains, and seventy-two links, north twenty-two degrees east from a stone on said city line and on the hill, thirty-seven chains and eighty-six links to the place of the old corner stone established by Anté Soulard; found by Jas. C. Brown in the year eighteen hundred and seventeen, and established by him in eighteen hundred and thirty-three, at this point set a limestone forty inches long, ten inches wide, and four inches thick, thirty inches into the ground, a corner of this survey, and of the aforesaid survey of Gabriel Cerré from which the main upright stem of a sycamore twenty-four inches in diameter bears north eighty-five degrees east distant forty links, thence north thirteen degrees and thirty minutes west, with a line between this survey and the claim of Cerré, at seventy-seven links a set stone two and two-thirds links to the left, at one chain and sixty-nine links a set stone six links to the left, at two chains and ninety-four links intersect the northwestern boundary line of the city of St. Louis at a stone ten chains and forty-four links north, twenty-two degrees east from another stone on said line and on the hill, at four chains and seventy-one links intersect the northern boundary line of the Saint Louis common field and of the common field lot survey number one thousand four hundred and eighty-seven at a stone ninety-four chains and thirteen links south seventy-five degrees, and fifteen minutes east from the northwestern corner of the common field, and of said lot, at five chains and

thirty-five links a set stone eighteen links to the left, at
26 six chains and eighty-eight links the west side of the north-
west prong of a double black oak fifteen inches in diameter, ten chains and fifty links equal to three arpens, six perches, to a corner of this survey in the old bed of the rocky branch, where, on account of the rocky bottom no course stone is set, from the point of this course the northwest corner of the southern abutment of the arch of the bridge across the rocky branch on the Bellefountaine road bears north nine degrees east, distant ten links—For further connection with this corner, which is marked E on the plat, run south twenty-two degrees west, three chains and six links to a point in the centre of the old road, at the foot of the hill, thence south one degree west, two chains ninety links the brow of the hill, and at eight chains and thirty links intersect the main northerly line of this survey with the centre line of said old road, at a point one chain and thirty-one links south seventy-four degrees and thirty minutes west of the intersection of said northerly line of this survey with the line between surveys numbered one thousand four hundred and eighty-six, and one thousand four hundred and eighty-seven—Return to corner E, and from thence meander down the Rocky branch, as near as practicable with the centre of the old bed thereof, north seventy-two degrees and thirty minutes east, at four links intersect the western side of the bridge, nine links south fourteen degrees thirty minutes east from the southern abutment of the arch thereof, at forty-four links intersect the eastern side of the bridge five links south fourteen degrees thirty minutes east from the southern abutment of the arch at one chain and fifty-three links a stone set in the old bed and in the right bank of the present bed of the branch thence north forty-two degrees and thirty minutes east at one chain and five links a limestone marked Z on the top set in the former bed of the creek on a hillock, seemingly made for turning the water from a stone wall, which is ten and a half links to the eastward from this stone, an elm thirty inches in diameter at the foot of the aforesaid stone wall bears north two de-
27 grees east distant sixty-nine links, and on this same course the southern edge of a wall is distant eleven links, another elm ten inches in diameter, bears north forty degrees west, distant thirty-seven and a half links thence north three degrees and thirty minutes east, at one chain and thirty-two links a point in the west side of a curve in said stone wall, from which the centre of the north end of the straight part of the wall bears south, two degrees east distant sixty links, and on the same course one hundred and thirteen links further the south end of said wall, thence north twenty-four degrees, and thirty minutes west, at eighty links a point in the water of the branch four links to the westward from the northern end of said stone wall, thence north fifty-five degrees west, with the branch, at one chain and sixty links a point in the left edge of the water of the creek,—thence north forty-seven degrees, and fifteen minutes west, one chain and fifty-nine links a point in the middle of the old bed of the creek two chains north seventy degrees east from the Bellefontaine road, thence north three degrees fifteen minutes west

at one chain a point on the left bank of the branch, thence north fifty-one degrees and forty-five minutes east—at seventy-three links a point in the branch thence south seventy-two degrees thirty minutes east at three chains and thirty-nine links a point thence north seventeen degrees and thirty minutes east, at fifty-nine links a post on the western side of a house appendant to Ashbrook's pork house, thence north at one chain a point in the old bed of the branch, thence north sixty-four degrees west at two chains and thirty-two links a point in the old bed of the branch, thence north one degree west, at one chain and twenty-six links the northwest corner of a brick house in the centre of the old bed of the branch, it being two chains and fifty-six links south, sixty-nine degrees west from the southwest corner of Dock street and Broadway,—thence north thirty-three degrees and forty-five minutes west, at seventy-seven links intersect the north side of Dock street two
28 chains and seventy-three links south sixty-nine degrees west from the northwest corner of Dock street, and Broadway at ninety-one links a point in the old bed of the branch, thence north twenty-five degrees and thirty minutes east, at one chain a point in a line of Jos. C. Brown's former meanders of the survey of this claim, thence south eighty-two degrees forty-five minutes east at one chain and ten links a point thirty and one-third links northward of Dock street, thence north five degrees and forty-five minutes west, at two chains and two links a point in the old and present bed of the branch, thence south seventy-eight degrees thirty minutes east, at sixty-three links a point in the west side of Broadway, one chain and ninety-one links north, twenty-one degrees west from the northwest corner of Broadway, and Dock street,—thence southwardly nine degrees and thirty minutes east, at one chain and forty-four links a point in the east side of Broadway, one chain and fifteen links north twenty-one degrees west from the northeast corner of Broadway and Dock street,—thence north eighty-six degrees thirty minutes east, at ninety-five links a point eighty-six and one-third links north, twenty-one degrees west from the north side of Dock street,—thence north twenty-four degrees east at sixty-three links a point one chain thirty-one and three-quarter links north, twenty-one degrees west from the north side of Dock street, thence north five degrees west at fifty-two links a point two chains eight links south, sixty-nine degrees west from the west side of Second or Main street,—thence north three degrees east, at one chain and ninety-nine links a point, one chain and twenty-seven links south, sixty-nine degrees west from the west side of Second or Main street, and two chains forty-five links, north sixty-nine degrees east from the east side of Broadway, thence north, nine degrees and forty-five minutes east; at sixty-six links a point ninety-three and a quarter links south sixty-nine degrees west, from the west side of Second or Main street—thence north seventy degrees fifteen minutes west, at one chain and eighteen links a point in the division
29 line between Overman and Overfield,—thence south sixty-nine degrees west, with the line between Overman and Overfield, at one chain and seventy-nine links a point on the east side

of Broadway, thence north fifty-five degrees and fifteen minutes west at one chain and twenty-four links a point in Broadway, thence north twenty-seven degrees and fifteen minutes east, at one chain a point in the east side of Broadway fifty-nine links south twenty-one degrees east from the southeast corner of Broadway and Buchanan street—thence north fifty-one degrees, and thirty minutes east, at one chain and ten links a point in the old bed of the branch,—thence south sixty-four degrees and thirty minutes east, at one chain and seventy links a point in the old bed of the branch, thence north sixty-four degrees and thirty minutes east, at forty-two links a point in the old bed of the branch thence north twenty-seven degrees and thirty minutes west, at one chain and seventy links a point in the old bed of the branch,—thence north forty-one degrees, and thirty minutes east, at one chain and forty-five links a point in the old bed of the branch, on the west side of Second or Main street, eight chains and thirty-two links, north twenty-one degrees west from the northwest corner of said street and Dock street, thence south forty-eight degrees and thirty minutes east, at two chains and sixty-two links intersect the eastern edge of Second or Main street, at three chains and seven links a point in the old bed of the branch,—thence north eighty-seven degrees, and thirty minutes east, at five chains and forty-six links a point at the mouth of the Rocky branch, the northeastern corner of this survey, and a corner to the city of St. Louis, it being the northern termination of the northwestern boundary line thereof. From this corner which is marked F on the plat, the northwest corner of Second or Main street and Dock street bears south thirty-seven degrees fifteen minutes west, distant seven chains and seventy-one links, and the point of intersection of the aforesaid city line with the southern edge of Dock street, bears south twenty-two degrees west, distant six chains and sixty-one links, which point of intersection is two chains and eight links north, sixty-nine degrees east from the southwest corner of Dock street, and Second or Main street,—From the corner of F down the right bank of the Mississippi river, with the meanders thereof, between high and low water mark, south nine degrees east, at eight chains and sixty-six links a stake, thence south twenty degrees east,—at five chains and fifty links a point, from which offset north, seventy degrees east, one chain and eighty-three links to the centre of the water of the Rocky branch, as running through the said beach, six chains and sixty-three links to the bluff of the sand beach seven chains and forty-seven links to the water's edge of the Mississippi river,—return to the meandering line, at ten chains a post from which the southeast corner of a stable bears south, forty-two degrees west, distant forty-six links, and the upper point of the entrance of the water of the Rocky branch into the Mississippi river, bears south sixty-two degrees and thirty minutes east, distant sixteen chains,—thence south thirty-four degrees east, at seven chains five links the eastern extension of Labeaumme's northern ditch from which the corner marked D on the plat bears north seventy-four degrees and thirty minutes east distant nineteen chains, and seventy-five links, at twenty-five chains a stake,—thence south

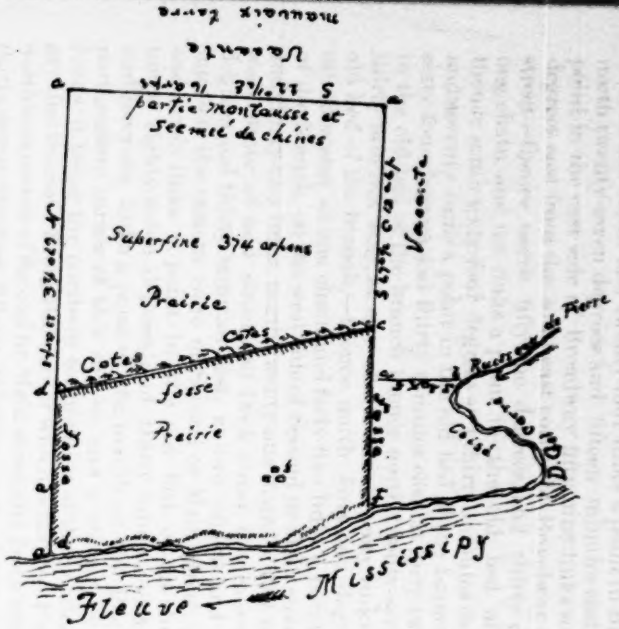


D.r Louis Labeaume

Note

a Coures de pierres, Temoins de marche par
b. Un Lièvre dans le Ruisseau
c.d.e.f qui designent Cetandu de Terre close
par un Jeré
maison de maitre cabanne, grange &c
Situe a 3 milles environs dans b.A. de
St Louis.

Arpenté le 2 Mars 1799 en vertu du droit
de Mr le Lt gour en date du 15 Fevr.
Certificat de arpentage expedié le 10 Avril



NO. 4470.
Survey'd
St. Louis
p. 31

wenty-three degrees east, at thirteen chains and sixty-seven links the northeast corner of Robertson and Paterson's saw-mill, at fourteen chains and eight links the southeast corner of said mill at twenty chains and fifty-seven links the southeast corner of Hendricks' flower-mill, nineteen links to the right, at twenty-three chains and thirty-five links the northeast corner of Cochrane's saw-mill, thirty chains and ninety-five links to the beginning corner.

The foregoing description of the metes and bounds of said survey number three thousand three hundred and thirty-three, being accompanied in the said transcript of survey certified on the
31 twenty-sixth day of February, one thousand eight hundred and fifty-two, by Surveyor General Clark, by "Remarks" and "Plat" and "Statement of the interferences," as follows, to wit:

Remarks.

The survey of this tract as made by A. Soulard in March one thousand seven hundred and ninety-nine, and recorded in "Registered d'apentage" page one hundred and thirty, a copy of which is attached hereto, represents the area thereof to be three hundred and seventy-four arpens, there being twenty-five arpens and thirty-hundredths of an arpen, equal to twenty-one acres, and fifty-two hundredths of an acre less than found by this survey, but as no notes of Soulard's survey describe the meanders of the Mississippi river, and of the Rocky branch, the former bounding the tract on the east, and the latter in part on the north, there are therefore no means to ascertain whether the difference, or excess, in the area of this survey over that given by Soulard is owing to a miscalculation by said Soulard, or to the subsequent accretion along the bank of the Mississippi river, since Soulard's operations,—This accretion appears to be rapidly advancing,—That portion of the tract eastward of the high bank, shown topographically on the foregoing plat, the top of which is designated by the dotted lines, "*a–b–c–d–e* and *f*" appears to be the accretion since Soulard's times, and containes about fourteen acres.

(The following is a copy of Soulard's survey above referred to:)

(Here follows map marked p. 31.)

32 Statement of the interferences of the surveys of certain lots in the St. Louis common field with this survey number three thousand three hundred and thirty-three in the name of Louis Lebeaumme, viz:

1st. Survey No. 1487, concession of 2 by 40 arpens to Widow Hebert and survey of the same certified on 23rd May 1772 by Pedro Piernas, lieutenant governor of the Spanish settlements of Illinois, and Martin Duralde, a surveyor duly appointed by said Piernas, confirmation to Widow Hebert's representatives by the 2nd section of the act of 29th April, 1816. See Livre Terrien No. 2, ps. 40, 67, & 68; Bates' Minutes, page 128, and his Decisions, p. 4, in the recorder's office.

2nd. Survey No. 1486. Concession of 2 x 40 arpens to Debuisseau, and certificate as above, confirmation as above to Debuisseau's representatives. Livre Ter. No. 2, ps. 39, 67, & 68; Bates' Minutes, p. 127, & his Decisions, p. 4.

3rd. Survey No. 3306. Concession of 3 by 40 arpens to Widow Dodier—survey and certificate as above—confirmation to Widow Dodier, or to her legal representatives by the 1st section of the act of the 4th July 1836 as per decision No. 300 of the last board of commissioners. See Liv. Ter. No. 2, ps. 38, 67, & 68; Minutes of the Late Board Book 6, p. 174, & Book No. 7, p. 185.

4th. Survey No. 1485. Concession of 4 by 40 arpens to Debuisseau—survey and certificate as above, confirmation to Debuisseau's representatives by the 2nd section of the act of 29th April 1816. Livre Ter. No. 2, ps. 37, 67, & 68; Bates' Minutes, p. 127; his Decisions, p. 4.

5th. Survey No. 1410. Jacques Clamorgau, assignee of Ortez under Gabriel Dodier—concession of 2 by 40 arepts to Gabriel Dodier survey and certificate as above, sale by the widow of Gab'l Dodier to John B. Ortez, the 10th January, 1810, sale by Ortez and wife to Jacq's Clamorgau the 14th April of the same year—confirmation to Gabriel Dodier's representatives by the 2nd sec-
33 tion of the act of the 29th April, 1816—also confirmation to Gabriel Dodier's legal representatives by the act of the 12th June 1812 as per proof before Recorder Hunt on the 15th August 1825 pursuant to the 1st section of the act of the 26th May, 1824. See Livre Terrien No. 2, p. 35, 67, & 68; Book F, ps. 90 & 91; Bates' Minutes, p. 74 & 127, & his Decisions, p. 1; also Haut's Minutes, Book No. 2, p. 147.

6th. Survey No. 1484. Concession of 3 by 40 arpens to Paul Gregaire Kircereau survey and certificate as above—confirmation to Paul G. Kiercereau's representatives by the 2nd section of the act of 29th April, 1816. See Livre Terrien No. 2, p. 34, 67, & 68; Bates' Minutes, p. 127; his Decision, p. 3.

7th. Survey No. 1486. Concession to Joseph Taillou of 1 by 40 arpens—survey and certificate as above confirmation to Joseph Tailou's representatives by the 2nd section of the act of the 29th April, 1816. See Livre Terrien No. 2, p. 33, 67, & 68; Bates' Minutes, p. 127; his Decisions, p. 3.

8th. Survey No. 380 (of the St. Louis lands) a piece of vacant land of 19.88 acres, designated and set apart to the public schools of the city of St. Louis by the surveyor general on the 31st March, 1845, pursuant to the act of Congress of 13th June, 1812, 26th May, 1824, and 27th January, 1831, and the instructions of the Commissioner of the General Land Office of the 15th January and 18th February, 1839.

9th. Survey No. 1482 (general series) concession of 1 by 40 arpents to Jean Baptiste Sarpy, survey of the same certified as above by Duraldé & Piernas confirmation to Jean B. Sarpy's representatives by the 2nd section of the act of 29th April, 1816, also confirmation by the act of 13th June, 1812, as per proof before Recorder Hunt on the 22nd June, 1825, to John Baptiste Sarpy's legal repre-

sentatives. See Livre Terrien No. 2, p. 32, 67, & 68; Bates' Minutes, p. 127, & his Decisions, p. 3; Hunt's Minutes, Book No.
34 2, p. 40, and his list No. 506.

10th. Survey No. 1481 concession of 1 by 40 arpents to Vien- survey and certificate as above,—confirmation — Vien's representatives by the 2nd section of the act of 29th April 1816. See Livre Ter. No. 2, ps. 31, 67, & 68; Bates' Minutes, p. 127, and his Decisions, p. 3.

11th. Survey No. 1480—concession of 1 by 40 arpents to Moreau survey and certificate as above—confirmed to Moreau's representatives, by the 2nd section of the act of 29th April, 1816. See Livre Terrien No. 2, p. 30; Bates' Minutes, p. 127, & his Decisions, p. 3.

12th. Survey No. 1479. Concession of 1 by 40 arpents to Lirette, survey and certificate as above, confirmation to Lirette's representatives by the 2nd section of the act of 29th April, 1816. See Livre Terrien No. 2, p. 29; Bates' Minutes, p. 127, and his Decisions, p. 3.

13th. Survey No. 734. Notice of claim by John Mullanphy to 80 arpens of land "as an improvement right under the assignment of Baptiste Provenchere"—deed from John Baptiste Provenchere to John Mullanphy dated 26th August, 1805—confirmation to John Mullanphy assignee of John Baptiste Provenchere on the 1st June, 1811, by the old board as per certificate No. 734 under the 2nd section of the act of 3rd March, 1807, and survey ordered according to possession. See Book A, ps. 12 & 57; Minutes of the Old Board, Book No. 4, p. 197; No. 5, p. 165, and certificate No. 734.

Now know ye, that there is therefore granted by the United States unto the said Louis Labeaume or his legal representatives, and to his or their heirs, the tract of land as described in the aforesaid survey number three thousand three hundred and thirty-three, saving and reserving any valid adverse rights, which may exist to any part thereof:

To have and to hold the said tract of land according to the
35 said survey number three thousand three hundred and thirty-three unto the said Louis Labeaume, or his legal representatives, and to his or their heirs and assigns forever, with the saving and reservation as aforesaid.

In testimony whereof, I, Millard Fillmore, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, this twenty-fifth day of March, in the year of our Lord one thousand eight hundred and fifty-two and the Independence of the United States the seventy-sixth.

By the President:

[SEAL.] MILLARD FILLMORE,
By ALEX. McCORMICK, *Sec'y.*

JOS. S. WILSON,
Acting Recorder of the General Land Office ad Interim.

Recorded, vol. 11, pages 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, & 171.

STATE OF MISSOURI, } ss:
County of St. Louis, }

I, the undersigned, recorder for said county, certify that the foregoing instrument of writing was filed for record in my office April 14, 1857, and is truly recorded in Book No. 188, page 1, and following.

Witness my hand and official seal the date aforesaid.

[SEAL.] C. KEEMLE, *Recorder.*

Mr. ROBERT: Just consider it as read.

Mr. ALLEN: Understand me as excepting every time an objection is ruled against me.

COURT: Yes.

Mr. DRABELLE: I want to call attention to the metes and bounds of the survey. The question will arise as to the effect of those metes and bounds.

36 COURT: Mark it with pencil—mark on the margin where it commences to describe the land in this particular vicinity.

Mr. JOHNSON: I will next offer in evidence deed from Louis Labeaume to William Chambers, the land embraced in this petition, dated the 27th day of April, 1816, Book F, page 9, recorded in recorder's office.

Mr. ALLEN: We enter the objection that it is irrelevant, incompetent, and immaterial, not describing the land in controversy—not tending to show the land in controversy at any time—and no issue in this case.

COURT: Objection overruled.

To which ruling defendants duly excepted.

Said deed was read, and is as follows:

This indenture made the twenty-seventh day of the month of April in the year one thousand eight hundred and sixteen between Louis La Beaume and Sozan Chauvet Dubruil his wife of Richwood township, county of Washington, Missouri Territory, and William Chamber- of Jefferson county, State of Kentucky;

Witnesseth: That the said Louis Labeaume and Suzon Chauvet Dubruil his wife for and in consideration of the sum of seven thousand and four hundred and sixty dollars current money of the United States of America to them in hand paid the receipt whereof they do hereby acknowledge have granted bargained and sold, aliened, released, enfeoff- and confirmed and by these presents do grant, bargain and sell, alien, release, enfeoff and confirm unto said William Chambers his heirs and assigns a certain tract or parcel of land situate being and lying in the county of St. Louis, Territory aforesaid, and on the waters of the Mississippi containing three hundred and seventy-four arpents French measure, and bounded as follows, to wit, beginning at a bound marked D, on the original plat of survey made by virtue of the original Spanish concession north sixty-seven degrees thirty minutes east to a bound E, on the Missis-

37 sippi, thence with the meanders thereof to the mouth of Stony creek, thence up with the meanders of said creek to a bound

A, thence from A, south, twenty degrees thirty minntes east thirty-six poles to B, thence from B, south sixty-seven degrees thirty minutes west one hundred and thirty-six poles to a bound C, thence from C south twenty-two degrees thirty minutes east one hundred and sixty poles to the place of beginning, the whole according to the plot of the original survey made by Ant. Soulard the tenth of the month of April, in the year one thousand seven hundred and ninety-nine, reference thereto being had it will more fully appear, and all the estate, right, title, interest claim and fee of them the said Louis La Beaume and Suzon Chauvet Dubruil his wife of in and unto the said tract of land with all the appurtenances unto the said William Chambers his heirs and assigns to his and their only proper use benefit and behoof forever, and the said Louis La Beaume, and Suzon Chauvet Dubruil his wife do covenant and agree to and with the said William Chambers his heirs and assigns that they are seized and possessed of a good, sure and perfect estate in fee-simple of in and unto said tract of land with all the appurtenances and that they have full power, and lawful authority to sell and convey the same to the said William Chambers his heirs and assigns, and the said Louis La Beaume and Suzon Chauvet his wife do further covenant and agree to and with the said William Chambers his heirs and assigns that the said tract or parcel of land is free and clear of and from all right and title of dower or incumbrances whatever and that they will — their heirs executors administrators shall warrant and forever defend the said tract or parcel of land, with all the appurtenances unto the said William Chambers his heirs and assigns forever against the lawful claim or claims of all and every person or persons whatever lawfully claiming or to claim the same. In testimony whereof the said Louis La Beaume and Suzon Chauvet
38 Dubruil his wife have hereunto set their hands and seals on the day and year first written.

LOUIS LE BEAUME. [SEAL.]
SUZON LA BEAUME. [SEAL.]

Signed, sealed, and delivered in presence of—
AUGUSTE LE NOIR.
ALBERT TISOU.
IN. E. THOLOZEAU.

RICHWOOD TOWNSHIP, }
County of Washington Territory of Missouri. }

Before me, one of the justice of the peace for and in the township aforesaid, personally appeared Louis La Beaume and Suzon Chauvet Du Bruil, his wife, of the said township, and acknowledged to have signed, sealed, and delivered the within instrument of writing as their act and deed for the purposes therein contained, and having examined said Suzon Chauvet Dubruil apart and out of the presence of Louis Le Beaume, her husband, she has declared and said she has signed and sealed the above of her own free will and consent, without any force or compulsion whatever.

In witness whereof I have hereto set my hand and seal the twenty-seventh day of the month of April, one thousand eight hundred and sixteen.

JOHN HORRRINE, *J. P.* [SEAL.]

April 27th, 1816.—Received of William Chambers, in part payment of the land conveyed by the foregoing deed, the sum of two thousand four hundred and eighty-six dollars and 67 cents, it being one-third of the purchase-money, and for the remaining two-third of said purchase-money I have a mortgage on the land.

LS. LA BEAUME.

Recorded this third day of July, 1816.

M. P. LEDUE, *Clk.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

39 The undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by Louis La Beaume and wife to William Chambers, together with the acknowledgment and date of recording thereof, as the same remains of record in my office, in Book F, p. 9.

In witness whereof I have hereunto set my hand and official seal this 12th day of March, A. D. 1896.

M. D. LEWIS, *Recorder.*

Mr. JOHNSON: We next offer in evidence deed from William Chambers to William Christy and Thomas Wright, being the same tract of land described in the Labeaume deed and patent. The deed is dated the 4th of May, 1816.

Mr. ROBERT: We object on the ground the signatures are not proven.

Mr. ALLEN: We object for the same reasons before made to deed from La Beaume to Chambers.

COURT: Objection will be overruled.

To which ruling defendants excepted.

Said deed was read and is as follows:

This indenture made this fourth day of May one thousand eight hundred and sixteen by and between William Chambers of Jefferson county in Kentucky of the one part and William Christy & Thomas Wright of the town of St. Louis in the Missouri Territory of the other part, witnesseth:

That the said William Chambers for and in consideration of the sum of four thousand nine hundred and seventy-three dollars and thirty-three cents to him in hand paid the receipt whereof he doth hereby acknowledge have granted bargained and sold and by these presents do grant, bargain and sell unto them the said William Christy and Thomas Wright their heirs and assigns, two equal undivided third parts of a certain tract or parcel of land containing three hundred and seventy-four arpens French measurement which land
40 is situated, lying and being in the county of St. Louis in the Missouri Territory, and bounded as follows, to wit: Begin-

ning at the letter marked D on the original plat of survey made by virtue of the original Spanish concession turning from thence north sixty-seven degrees thirty minutes east to the letter E, on the bank of the Mississippi thence with the meanders thereof to the north of Stony creek. Thence up with the meanders thereof to the letter A, on the said plats, thence south twenty degrees thirty minutes east thirty-six poles west one hundred and thirty-six poles to the letter C. Thence south twenty-two degrees thirty minutes east one hundred and sixty poles to the place of beginning. Containing according to the aforesaid original plat of survey made by Antn. Soulard the tenth day of April in the year one thousand seven hundred and ninety-nine reference thereunto being had, it will more fully appear. It being the same tract or parcel of land purchased by the said William Chambers of Mr. Louis La Beaume and Suzon Chauvet Dabruiel his wife for and on the joint & equal account of the said Christy Wright and himself on the twenty-seventh day of April eighteen hundred & sixteen—to have and to hold the said tract or parcel of land with all the appurtenances unto the said Wm. G. Christy and Thomas Wright their heirs and assigns to them and their only proper use and behoof forever and the said William Chambers doth covenany and agree to and with the said Christy & Wright their heirs and assigns that he the said Wm. Chambers will warrant and defend the said tract of land unto the said Christy and Wright their heirs and assigns against all and every person or persons lawfully claiming or to claim the same by, through or under him the said Chambers, but not against the claim or claims of any other person or persons whatsoever, and the said Wm. Chambers hereby further covenants and agrees to and with *this* Wm. Christy & Thomas Wright that they shall have full power and authority in common with himself to proceed against the said Louis Lebeaume & his legal representatives at law or
41 in equity under the covenant of general warrant*ee* contained in a deed of conveyance from the said Lebaume and his wife to the said Chambers for this same tract of land. Which deed was executed on the twenty-seventh day of April, one thousand and eight hundred and sixteen. For any damage they may sustain by the loss of any part of the land and they are hereby fully vested with the said authority.

In testimony whereof the said William Chambers hath hereto set his hand & seal the day and year first written.

WM. CHAMBERS. [SEAL.]

Written teste:
M. BLOOMFIELDWALL.
J. READ.

TOWNSHIP OF SAINT LOUIS, } ss:
County of St. Louis, Territory of Missouri, }

On the fifth day of May, eighteen hundred and sixteen, personally appeared before me, the subscriber, a justice of the peace for said

Saint Louis township, William Chambers and acknowledged the foregoing instrument of writing to be his act and deed and the premises therein mentioned to be the right and estate of the within-named William Christy and Thomas Wright, their heirs and assigns.

Given under my hand and seal the day and year aforesaid.

JHER CONNOR, [SEAL.]
J. P., St. Louis Township.

3rd July, 1816, 2nd.

Wm. Chambers to Wm. Christy & Thos. Wright. Deed.
Taxes, 0.50; record, 1.2; certificate, 20—$1.90.

STATE OF MISSOURI:

Be it remembered that this first day of September, eighteen hundred and thirty, personally appeared before me, a judge of
42 the supreme court in and for the State of Missouri, the within-named William Chambers, who is personally known to me to be the person whose name is subscribed to the within deed as having executed the same, and who declares that the same was heretofore executed and delivered on the fourth day of May, eighteen hundred and sixteen, as the same appears on the face of said deed, but, in order to comply with the existing laws on the subject, the said Chambers now acknowledges the same to be his act and deed for the purposes therein expressed.

Taken and certified the day and date first above written.

R. WASH,
Judge of the Supreme Court.

Recorded, Book F, page 10, and following, this third day of July, 1816.

M. P. LEDUC, *Co. Clk.*

Mr. ROBERT: It is not acknowledged under seal.

Objection overruled; to which ruling defendants duly excepted.

Mr. ALLEN: Mr. Reporter, note the exceptions when there is an adverse ruling.

I next offer in evidence deed from William Chambers & Thomas Wright to William Christy, partition deed, by which they conveyed and released their interests in certain parts embraced in this patent, including a great number of other lots out of lots # 1 and lot # 9, being the one in which the property in partition to which the accretion was made. Recorded in Book —, page 30.

Mr. ALLEN: We make the same objection.

COURT: Same ruling.

To which ruling defendants duly excepted at the time.

This deed made this first day of March eighteen hundred and thirty by and between William Chambers in his own proper person and Thomas Wright and Mary Ann his wife of the first part, and William Christy of the second part,

Witnesseth: That the said parties aforesaid being tenants in common in a certain tract of land now known by the name of
43 North St. Louis it being the same which the said William Chambers — of Louis Labeaume, as will more fully appear, by the deed bearing date the twenty-seventh day of April, eighteen hundred and sixteen and recorded in recorder's office of St. Louis county in Record Book F page nine an undivided interest of two-thirds of which was formerly conveyed by the said William Chambers to William Christy and Thomas Wright. For the division of the above-mentioned land, three several attempts have been made by commissioners and by consent, all of which division and conveyances by the mutual consent of all parties are hereby set aside and rendered null and void, to all interest and purposes. The parties aforesaid, having agreed on and affected a division of the land above described the parties of the first part hereby proceed to make this deed of relinquishment to the aforesaid William Christy, for those parts and parcels of the said tract as are hereinafter more particularly described.

Now therefore, the said parties of the first part for and in consideration of the quitclaim conveyance made by the said Christy to the said Chambers and Wright, and the sum of one dollar to them in hand, the receipt whereof is hereby acknowledged have sold and remised, released and forever quitclaime- and by these presents, do sell, remise, release and forever quitclaim unto the said William Christy his heirs and assigns forever, all their undivided right, title and interest, claim and demand of in and to the following-described parts and parcels of the aforesaid tract of land, to wit: All the lots known and described on a plan of the said town of North St. Louis with the enlargements thereto(now acknowledged by all the parties aforesaid and filed in the office of the recorder of deeds for the county of St. Louis in the State of Missouri in compliance with the statute in that case made and provided) by the following numbers, viz: (18) eighteen, (40) forty, (55) fifty-five (56) fifty-six fifty-seven (57) (69) sixty-nine, (74) seventy-four (77) seventy-
seven (79) seventy-nine, (80) eighty, (84) eighty-four (94)
44 ninety-four (96) ninety-six, (106) one hundred and six (107) one hundred and seven (108) one hundred and eight (109) one hundred and nine (110) one hundred and ten (111) one hundred and eleven (133) one hundred and thirty-three (135) one hundred and thirty-five (136) one hundred and thirty-six (137) one hundred and thirty-seven (139) one hundred and thirty-nine (140) one hundred and forty (141) one hundred and forty-one (142) one hundred and forty-two (143) one hundred and forty-three (144) one hundred and forty-four (145) one hundred and forty-five (146) one hundred and forty-six (147) one hundred and forty-seven (188) one hundred and eighty-eight (189) one hundred and eighty-nine (190) one hundred and ninety (191) one hundred and ninety-one (192) one hundred and ninety-two (193) one hundred and ninety-three (194) one hundred and ninety-four (195) one hundred and ninety-five (196) one hundred and ninety-six (197) one hundred and ninety-seven (198) one hundred and ninety-eight (199) one hundred and ninety-

nine (200) two hundred (201) two hundred and one (205) two hundred and five (245) two hundred and forty-five (246) two hundred and forty-six (247) two hundred and forty-seven (248) two hundred and forty-eight (249) two hundred and forty-nine (250) two hundred and fifty (251) two hundred and fifty-one (252) two hundred and fifty-two (253) two hundred and fifty-three (254) two hundred and fifty-four (255) two hundred and fifty-five (256) two hundred and fifty-six (257) two hundred and fifty-seven (258) two hundred and fifty-eight (260) two hundred and sixty (260) two hundred and sixty-one (261) two hundred and sixty-one (262) two hundred and sixty-two (285) two hundred and eighty-five (286) two hundred and eighty-six (287) two hundred and eighty-seven (288) two hundred and eighty-eight (289) two hundred and eighty-nine (290) two hundred and ninety, making seventy in or building lots containing eighty feet front, by one hundred and fifty feet deep. Also the following outlots situated between Spring street and Stoney creek,
45 to wit: Lots numbered one (1) four and nine (9) as will appear on a plan and division of that part of the land situated between Spring street and Stoney creek as made and agreed on the fifteenth day of February 1830, and now filed for record: Likewise one lot on the river shore, bounded as follows: Beginning where a stake stands at high-water mark, six feet eight inches, south of where the southern boundary line of lot number thirty-two if continued would strike, the said high-water mark, on the east edge of the lot set apart for a public walk, thence up the river with said east edge of the public walk and with high-water mark four hundred and thirty-three feet four inches to another stake at high-water mark, six feet eight inches north of where the northern boundary line of lot number twenty-nine would strike the river at high water. Thence eastwardly in a line parallel to the said northern boundary line of said lot twenty-nine to the river, thence down the river four hundred and thirty-three feet four inches, thence westwardly on a line parallel to the said southern boundary line of lot number thirty-two, to the beginning with all the rights, and privileges of erecting wharves thereon, but not warehouses, and it is distinctly understood and agreed by the parties of the first part, that all the lots either now or heretofore sold and conveyed by them unto the said William Christy on the river bank shall extend to the river with the right of erecting wharves and warehouses thereon, and with all other rights and privileges (ferriage excepted) thereunto belonging or in any way appertaining. Also a parcel of ground, bounded on the north by the northern boundary line of the original survey on the east by lot number four of the outlots, on the south by Spring street and on the west by Sixth street. Also that parcel of ground lying immediately north of the block of lots set apart for a burying ground, and bounded on the north by the northern boundary line of the original survey, on the east by Sixth street, on the south by Montgomery street and on the west by a fifty-acre lot this
46 day conveyed, also unto the said Christy the said parcels of ground supposed to contain about four acres more or less. Likewise fifty acres of land, more or less lying west of the last-men-

tioned parcel of ground, and bounded as follows, beginning at the intersection of the west edge of Seventh street if it had been continued north and the north boundary line of the original survey of 374 arpens thence running south seventy-four degrees thirty minutes west, twenty-two chains and ten links, thence south fifteen degrees and thirty minutes east, twenty-one chains, thirty-one links, thence north seventy-four degrees and thirty minutes east, twenty-four chains and seventy links to Seventh street, thence north twenty-one degrees thirty minutes west, and with Seventh street if it had been continued twenty-one chains and thirty-one links to the beginning. All of which will more fully appear by reference to the plan of the town of North St. Louis now herewith filed and to be taken as part of this conveyance. To have and to hold the said described lots and lands with the hereditaments and premises hereby granted and intended to be granted with the appurtenances unto the said William Christy his heirs and assigns to and for the only proper use benefit and behoof of him the said William Christy his heirs and assigns forever, and the said parties of the first part do hereby covenant and agree to and with the said William Christy his heirs and assigns by these presents that they will warrant and forever defend the said described premises or lots and lands hereby granted with the appurtenances unto the said William Christy his heirs and assigns against themselves and their heirs and all persons claiming by through or under them.

In testimony whereof the said parties of the first part have hereunto set their hands and seals the day and year first within mentioned.

WM. CHAMBERS. [SEAL.]
THOS. WRIGHT. [SEAL.]
MARY ANN WRIGHT. [SEAL.]

Signed, sealed and delivered in presence of—

EDW'D T. CHRISTY.
47 R. WASH.
J. DEAN.
WM. WRIGHT.

STATE OF MISSOURI, *ss:*

Be it remembered that on this first day of September, eighteen hundred and thirty, personally appeared before me, a judge of the supreme court in and for the State of Missouri, the above and within named William Chambers, who is personally known to me to be the person whose name is subscribed to the within and foregoing deed as having executed the same, and acknowledged — as his act and deed for the purposes therein expressed. Taken and certified this day and date last above written.

R. WASH,
Judge of the Supreme Court.

STATE OF MISSOURI, *ss:*

Be it remembered that *that* on this thirty-first day of May, eighteen hundred and thirty-six, personally appeared before me, a judge of the supreme court in and for the State of Missouri, the above and within named Mary Ann Wright, who is personally known to me to be the person whose name is subscribed to the within and foregoing deed as having executed the same, and acknowledged — as her act and deed for the purposes therein expressed. Taken and certified this day and date last above written.

R. WASH,
Judge of the Supreme Court.

STATE OF MISSOURI, }
City of St. Louis, } *ss:*

Be it remembered that on this thirty-first day of May, in the year of our Lord one thousand eight hundred and thirty-six, before me, the clerk of the circuit court within and for the county aforesaid, came Robert Wash and Edmund T. Christy, both of whom are known to me to be the persons whose names are subscribed to the within and foregoing instrument of writing as witnesses thereto, and who, being examined by me under oath, declared that Thomas Wright, whose name is subscribed to the said instrument as a party thereto, was the person who executed the same; that he
48 signed and sealed the same in the presence of these affiants, who thereupon subscribed their names thereto as witnesses thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at office, in the city of St. Louis, the date aforesaid.

(Ss.) I. N. RULAND, *Clerk.*

Filed for record May thirty-first, 1836, and recorded 20th June, 1836.

I. N. RULAND, *Recorder.*

STATE OF MISSOURI, }
City of St. Louis. }

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by William Chambers *et al.* to William Christy, together with the acknowledgments and date of filing and recording thereof, as the same remain of record in my office in Book X, page 30.

[SEAL.] In witness whereof I have hereunto set my hand and official seal this 12th day of March, A. D. 1896.

M. D. LEWIS, *Recorder.*

Mr. JOHNSON: I now offer in evidence certified copy of the will and probate of the will of William Christy, simply calling your honor's attention to his giving his wife a life estate in same property, and to the children of his deceased daughter such parts as

would have been their mother's had she survived and had died intestate.

Mr. ALLEN: To that we make the same objection, as not referring to the property here and not being competent, material, or relevant.

COURT: Objection overruled.

To which ruling defendants duly excepted.

Said will and probate were read and are as follows:

I, William Christy of North St. Louis in the county of St.
49 Louis & State of Missouri do make this my last will and testament I give and bequeath to my beloved wife Martha T. Christy for & during her life, two entire blocks of six lots each, of land on which I now reside and otherwise occupy with all the buildings and other appurtenances thereunto belonging for a place of residence for her and any of my children she may choose to live with her, I also give and bequeath to my beloved wife aforesaid for her support and the support & education of my young and unmarried children all my income of every kind all the slaves which I may own at my death; and I do hereby authorize my executors hereafter named to sell or otherwise dispose of any of my slaves at the request of my wife and to supply their places with others more suitable, and it is my will and desire, that my wife shall and she is hereby at liberty to bestow my slaves at the time of her death to any one of my children or make equal division thereof amongst them or otherwise as she may think best. I also give and bequeath to my beloved wife her heirs and assigns forever, all my stock of horses, cattle, &c., all my household & kitchen furniture, & provisions which may be on hand at the time of my death also for her support & the education of my daughter Virginia, all the monies which may be due me after my debts are paid, and all the rents and proceeds of my property of every description for and during her life and I hereby authorize and empower my executors or any two of them to sell any of my land not otherwise disposed of for the payment of my debts also to make conveyance to my lands which I may have sold and not conveyed, in as full & ample a manner as if done by me. I also give and bequeath to my granddaughters Mary Ann Berry, Martha Eliza Berry & Frances Wash, children of my daughter Frances W. Christy such portion of my landed estate as would have been their mother's had she survived me & I had died intestate to be divided equally between them. I also give and bequeath to my daughter Virginia M. Christy the two blocks of lots &c. herein willed to her mother during her life, to her the said V. M. Christy & the heirs of her body forever, but should she
50 die without having heirs of her body, the property hereby willed to her & her mother, during their lives shall then be & become the property of Edmund T. Christy & Howard T. Christy to them & their heirs of their bodies or either of them, in case that but one of my said sons shall leave a legal or legal heirs of his body that one shall inherit the aforesaid property. Should my grandson Thomas Wright live until he is fifteen years of age and be then at college my executors or any one of them are hereby empowered to

dispose of as much of my landed estate as will enable them to pay three hundred dollars yearly for three years in support of his education if necessary, it is also my will that my executors or any one of them shall pay to my daughter Virginia from the income of my estate yearly four hundred dollars to commence after the death of her mother, should she be then unmarried and continue the payment yearly until she shall be united in the bonds of matrimony.

All my North St. Louis property which has not or may not be disposed of before my death & which lots or pieces of land can be divided by the numbers which will be found in the deed made to me by my partners each taking a proportion of the most valuable & least valuable with a deduction from those who has or may have received a lot or lots so as to do equal justice to all without interfering in any manner with the houses or lots willed to my daughter Virginia. In order to provide the means to pay off the legacies herein contemplated, I hereby reserve from sale or division among my children a small block of six lots of land lying between Tenth & Eleventh streets within my meadow field, & a little west of the Catholick college, and numbered seventeen, eighteen, nineteen, thirty, thirty-one, thirty-two, the said lots or any part of them my executors or any one of them are hereby fully empowered to sell & convey and dispose of the money agreeably to my intentions made known in this will. Taking into consideration the present state of the remaining members of my family, I think it but just & equitable that my granddaughter
51 Martha J. Swearingen shall receive only one-half of such proportion of my landed estate as would have been her mother's had she survived me, and I had died intestate. I give & bequeath to my daughter Virginia the four western tenements of my brick row with their width of the lot to the southern line of K lot, with the right to use the water of the well in s'd lot without restraint; and lastly I do hereby nominate and appoint Judge Robert Wash, Gen'l W. H. Ashley, Nathaniel P. Taylor and my old friend Gen'l William Clark executors of this my last will and testament, who are hereby or any two of them, fully empowered to transact the business contemplated by this my last will; should it so happen that any one or more of the persons above named as my executors shall find it inconvenient to act or having acted shall wish to withdraw, they or either of them are hereby authorized to appoint his successor or successors who when thus appointed shall possess the same power and authority under this my will as those appointed now by me.

Note, the words, all my income of every kind, interlined between ten & eleven from the top in first page *was* interlined by me, and the words, four, in the second page was made by me.

January 9th, 1896 (?).

W. CHRISTY.

Witness- present:
B. G. FARRAR.
HARRIET M. DEAN.

NOTE.—The word four, in the eighteenth line above, was written by me. W. CHRISTY.

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that at a term of the county court within and for the county aforesaid, begun and held at the city of St. Louis, in said county, on the first Monday in May, in the year of our
52 Lord one thousand eight hundred and thirty-seven, personally appeared, in open court, on the eighteenth day of May, in the year and at *at* the term aforesaid, Harriet M. Dean, one of the subscribing witnesses to the foregoing and annexed instrument of writing, who, being duly sworn according to law, upon her oath deposed and said that she was present and saw William Christy make this first signature to the said instrument, and heard him acknowledge it to be his hand and seal, and is under the impression that he said it was his last testament, and that she witnessed and signed the same as a witness in the presence and at the request of said William Christy. She further deposed that she did not know anything about the other memorandums. And on the eighteenth and twenty-second day of May, in the year and at the term aforesaid, also appeared Bernard J. Farrar, the other subscribing witness to the said annexed instrument of writing, who, being duly sworn according to law, upon his oath deposed and said that he signed the said instrument in the presence and at the request of said William Christy, the testator. He further deposed that he knew nothing of any of the signatures to said instrument except the first signature thereto, and both said witnesses deposed and said that at the time they witnessed the same the said William Christy was of sound and disposing mind, to the best of their knowledge, observation, and belief; whereupon, on the twenty-third day of said month of May, in the year and at the term aforesaid, it was considered by said court that the foregoing and annexed instrument of writing was duly proved to be the last will and testament of said William Christy, deceased, and granted probate thereof.

In testimony whereof I, Henry Chouteau, clerk of said county court, have hereunto set my hand and the seal of said
[SEAL.] court, at office, in the city of St. Louis, this twenty-fourth day of May, in the year of our Lord one thousand eight hundred and thirty-seven.

53 HENRY CHOUTEAU, *Clerk.*

STATE OF MISSOURI, } ss:
County of Saint Louis, }

I, Henry Chouteau, clerk of the county court within and for the county aforesaid, do certify that the foregoing last will and testament and certificate of probate are duly recorded in my office in the record of letters and wills, Book B, page 334 and following.

In testimony whereof I have hereunto set my hand and seal of said court, at the city of St. Louis, this twenty-fourth day
[SEAL.] of May, in the year one thousand eight hundred and thirty-seven.

HENRY CHOUTEAU, *Clerk.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, Joseph A. Wherry, clerk of the probate court within and for the city of St. Louis aforesaid, do hereby certify the foregoing to be a true and complete copy of the last will and testament of William Christy, deceased, and of the probate thereof as fully as the same remains on file and appears of record in my office.

In witness whereof I hereto set my hand and affix the seal of said court, at office, in St. Louis, this fourteenth day of March, [SEAL] 1896.

JOS. A. WHERRY, *Clerk.*

Mr. POLLARD: What date is the probate of the will?

Mr. JOHNSON: It was probated the first Monday in May, 1837.

Mr. JOHNSON: I next offer in evidence proceedings in partition between the heirs and legatees of William Christy, being case of Howard F. Christy *et al. vs.* James F. Swearingen *et al.*, No. 562, July term, 1840, circuit court, county of St. Louis, chancery,
54 in which this property, among a great deal of other property left, was partitioned among his heirs. I presume it is not worth while to read the lengthy documents. I will offer the pleadings in evidence, which describe this lot # 9 as belonging to the heirs; also plat marked No. 2, attached to or made part of an answer.

Mr. ALLEN: To that we enter the same objection—not the property in controversy; not being in any way material, competent, or relevant.

COURT: Objection overruled.

To which ruling defendant excepted. Said pleadings and plat No. 2 were read and are as follows:

St. Louis Circuit Court.

HOWARD F. CHRISTY and Others } In Chancery.
vs.
SWEARINGEN & Others.

The Answer of William T. F. Wright, Martha Ann Wright, Thomas Wright, & Mary Wright, Infants, by Their Guardian ad Litem, J. D. Johnson.

The said defendants, William T. F. Wright, Martha Ann Wright, Thomas Wright, and Mary Wright, by their guardian aforesaid, in answer to said amended bill say that they are ignorant of the matters therein set forth, and they pray the court that their interests may not sustain injury by reason of their tender years, but that what is just and right in the premises may be done, and they pray to be

hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained, &c.

WILLIAM T. F. WRIGHT,
MARTHA ANN WRIGHT,
THOMAS WRIGHT, AND
MARY WRIGHT,
By their guardian, J. D. JOHNSTON.

HOWARD F. CHRISTY, NATHANIEL P. TAYLOR, & Matilda N., His Wife; Harriet M. Dean, and Others
55 *vs.*
JAMES T. SWERINGEN, MARY ANN WRIGHT, and Others.
} In Chancery.

And the said Mary Ann Wright, one of the said defendant-, by her solicitor, comes and exhibits the following interrogatories to certain of the said complainants, to wit, to the said Howard F. Christy, Nathaniel P. Taylor, Matilda N. Taylor, Harriet M. Dean, Virginia Smith, and Martha T. Christy, to be by them specially answered:

1st. Do you or either of you know the fact that William Christy, deceased, in his lifetime (and, if so, at what time) made a distribution of certain of his real estate, by lottery or otherwise, amongst certain of his children; if so, what was the mode of conducting the said distribution or allotment, and who were the parties thereto?

2nd. Were there any persons who drew or obtained property by said distributions or allotment; and, if so, who were they and what property was so drawn or obtained by them?

3rd. Was not said distribution or allotment made in good faith and intended to be permanent?

4. Did any of the distributees in said allotment obtain from the said William Christy any deed or conveyance for the share or shares that fell to them in said distribution; if so, who were they that obtained such deed or conveyance?

5. Did not the said defendant, Mary Ann Wright, at the distribution or allotment aforesaid, obtain or draw a certain block of ground situated in said Christy's forty-arpen lots; and, if so, what was the number of said block, or how was it otherwise designated?

6th. Was not the said block of land from the time of said distribution or allotment regarded by said William Christy as the absolute property of the said Mary Ann Wright, and did not the said William Christy repeatedly offer to sell said block for her,
56 recognizing it as hers?

7th. Did not the said William Christy afterwards propose to said Mary Ann Wright to sell said block of land for her, along with his own property, at the time of his sale of lots in his addition to the city of St. Louis, and was not the same so sold with her consent?

8th. Is not the said block of land the same which was sold by said William Christy at the time of his sale aforesaid for the sum of eleven thousand three hundred dollars or thereabouts, with which sum the said Mary Ann Wright stands charged in said petition for

partition as an advancement in money from the said William Christy, deceased?

J. D. JOHNSTON.
Solicitor for Mary Ann Wright.

HOWARD F. CHRISTY ET AL.
vs.
JAMES T. SWERINGEN ET AL.

The Separate Answer of Mary Ann Wright, One of the Defendants in the Above Cause.

This respondent, for answer to the said petition, saith she admits all the matters contained on said petition and all the advancements thereon stated as made to her in the lifetime of her father, the said William Christy, deceased, except the advancement of eleven thousand three hundred dollars in money, as charged in said petition. This respondent admits that her said father, some time in the year eighteen hundred and thirty-five, gave to her the block of land mentioned in said petition as that, the proceeds of the sale of which were given to this respondent, and she expressly claims that said block at the time of the sale aforesaid was her property and not the property of her father.

This respondent further sayeth that in the year of eighteen hundred and thirty-five the said William Christy, deceased, made
57 an allotment or distribution of part of his real estate amongst certain of his children, and having made a plan in map of the portion to be divided caused them to cast lots for the same, on which occasion the said block of land fell to the share of this respondent, to whom no deed was executed by said William Christy, although he ever recognized the said block as belonging to this respondent. This respondent also saith that at said allotment others of the children of said William Christy obtained shares of the ground, and to some deeds were actually made for the portions drawn by them. This respondent expressly charges that it is within the knowledge of divers of the parties to this suit, and that it was generally known and recognized among the members of her father's family, that she had drawn the block of land aforesaid, and that in consequence the said block was regarded, as well by her father as the rest of his family, as her property, and that this recognition was strengthened on the part of her said father by repeated acts confirmatory of the claim of this respondent. This respondent further saith that said William Christy, deceased, some time in the month of June, as she believes, in the year of our Lord eighteen hundred and thirty-six, advertised for sale certain of his real estate, and, having before that time repeatedly offered and, with the consent of this respondent, endeavored to effect for her a sale of said block of land, though unsuccessfully, he, the said William Christy, advised the respondent that it might be expedient to sell the said block with his property, which he was about to sell, and this respondent assenting thereto, with the understanding that she

was to have the proceeds of the sale of said block, said block was accordingly advertised and sold by her said father, along with his own property, and the proceeds, to wit, the sum of eleven thousand three hundred dollars, or thereabouts, were paid over or secured to be paid to this respondent, as in right they should
58 have been, not as a donation, but as her due. This respondent further saith that inasmuch as the said block of land was justly hers before the sale thereof and from the time of the distribution or allotment aforesaid, she admits it as an advancement of so much property, to be considered according to its relative value at the time it was allotted, but not otherwise.

All which matters and things this defendant is ready to aver, maintain, and prove as this honorable court shall award, and humbly prays to be hence dismissed with her reasonable costs and charges in this behalf most wrongfully sustained.

M. A. WRIGHT.

STATE OF MISSOURI, } *ss:*
County of St. Louis, }

Mary Ann Wright, this respondent in the foregoing answer, being duly sworn, upon oath saith that the facts set forth in said answer, so far as they are stated of her own knowledge, are true, and so far as they are stated upon the knowledge of others she believes to be true.

M. A. WRIGHT.

Sworn to & subscribed before me this 26 day of March, 1840.

J. W. RULAND, *Clerk.*

HOWARD F. CHRISTY, NATHANIEL P. TAYLOR & WIFE, HARRIET M. B. DEAN, EDWIN B. SMITH & WIFE, HENRY S. CONE & WIFE, MARTHA ELVIRA BERRY, & FRANCIS S. M. WASH
vs.
JAMES T. SWERINGEN, MARTHA J. SWERINGEN, & MARY ANN WRIGHT.

The Separate Answer of Martha J. Sweringen to the Bill of Com-
59 *plainants.*

This respondent, now and at all times hereafter, saving and reserving to herself all manner of benefit and advantage of exception to the manifold uncertainties and insufficiencies in the said bill contain-, for answer thereto saith that she knows that her grandfather, William Christy, died seized of the real estate in the bill of complaint described, and that he made his will as stated in said bill.

This respondent is not acquainted with the amount or particular property given by her grandfather as advancements to his children.

This respondent knows that she took by descent from her brother-, William C. Farrar and James L. Farrar, undivided interests in the said lots of ground described in the said bill as having been conveyed by her grandfather to her brother- William and James, but

whether the interest thus descended to her from her brothers is an advancement affecting her claim as an heir of her grandfather, this respondent does not know, and submits the same to the court.

This respondent has always understood and believes it to be true that her grandfather sold to her husband, James T. Sweringen, for a valuable consideration and without regard to any purpose of advancing this respondent, the other real estate which in said bill is alleged to be an advancement to this respondent.

This respondent further says that she has no knowledge of any advancement to her mother by her grandfather giving the negro named Phil in the bill mentioned.

This respondent requires proof to be made by the complainants of the advancements which they attempt to claim against her, and reserves the right to prove other advancements made to the other heirs of the said William Christy, deceased, as the same may be discovered; and having fully answered the said bill without that, that she prays to be hence dismissed with her costs in this behalf sustained.

MARTHA J. SWERINGEN.

60 STATE OF MISSOURI, } ss:
County of St. Louis, }

This day personally appeared before the undersigned, a justice of the peace of the county aforesaid, Martha J. Sweringen, who, being duly sworn, upon her oath saith that the matters stated in the foregoing answer, so far as stated on her own knowledge, are true, and so far as stated on the information of others she believes to be true.

MARTHA J. SWERINGEN.

Sworn to and subscribed before me July 14, 1840.

GEO. A. HYDE,
Justice of the Peace, St. Louis County, Mo.

HOWARD F. CHRISTY, NATHANIEL P. TAYLOR & WF., HARRIET M. B. Dean, Edwin B. Smith & Wf., Henry S. Cone & W-fe, Martha Elvira Berry, & Francis S. M. Wash
vs.
JAMES F. SWERINGEN, MARTHA J. SWERINGEN, MARY ANN WRIGHT.

The Separate Answer of James T. Sweringen to the Bill of Complainants.

This respondent, now and at all times hereafter, saving and reserving to himself all manner of benefit and advantage of exception to the manifold errors and insufficiencies in the said bill contained, for answer thereto saith:

That it is true that the said William Christy died seized of the real estate in the said bill described, and that he made his will as is stated in said bill.

61 This respondent knows that his wife, Martha J. Sweringen, took by descent from her brothers, William C. C. Farrar and James L. Farrar, undivided interests in the lots of ground which are

mentioned in the bill as having been conveyed by said William Christy to said William C. and James L. Farrar, but whether the said lots or any part thereof can be legally considered advancements to the said Martha J. Sweringen this respondent knows not, but submits the same to the court.

This respondent denies that the said block or parcel of ground in the said bill described as having been conveyed to this respondent by the said William Christy, by deed dated the second day of June, 1836, was conveyed to this respondent, either in whole or in part or in any form, as an advancement to his wife, Martha J. Sweringen; but, on the contrary, this respondent expressly says that the said block or parcel of ground was conveyed to this respondent in lieu of another lot of ground, which said William Christy had sold to this respondent in the month of November or December, 1835, for the sum of two thousand dollars, and which he declines conveying to this respondent, and by consent of this respondent the block or lot mentioned and described in the bill of complaint was substituted for that which had been purchased by respondent, as aforesaid. The sale when it was made to this respondent, as aforesaid, was made at what was considered by competent judges a full price for the ground so sold, and was made after the lot had been offered by said Christy to others for the same price at which this respondent purchased, and this respondent says that the lot or block which said Christy sold to this respondent for the sum of two thousand dollars, as aforesaid, and which he subsequently declined to convey, was immediately south of that which he afterwards conveyed by his deed of the second day of June, 1836, and was of fully as much value as that which he so conveyed, and so this respondent utterly denies that the said lot or block so conveyed to this respond-
62 ent was or was intended to be an advance to the wife of this respondent.

This respondent has been informed and believes, and therefore charges the fact to be, that the negro named Phil., mentioned in the bill as an advance to the mother of the said Martha J. Sweringen, was never given or received as an advancement of the mother of said Martha J. Sweringen.

This respondent, further answering, says that the said complainants have not truly stated the advancements made to some of them severally, nor have they stated all the advancements made to the said Mary Ann C. Wright, as this respondent believes, and this respondent will file interrogatories to some of said complainants which he prays the court to compel them to answer.

And this respondent, having fully answered said complainants' bill, without that, &c., prays to be hence dismissed with his costs.

J. T. SWERINGEN.

STATE OF MISSOURI, }
County of St. Louis. }

This day personally appeared before me, the undersigned, a justice of the peace of the county aforesaid, James T. Sweringen, who, being duly sworn, upon his oath saith that the matters in the foregoing

answer contained, so far as the same are stated on his own knowledge, are true, and so far as the same are stated on the information of others he believes to be true.

J. T. SWERINGEN.

Sworn to & subscribed before me July 14, 1840.

GEO. A. HYDE,
Justice of the Peace, St. Louis County, Mo.

St. Louis Circuit Court.

HOWARD F. CHRISTY & Others
vs.
JAMES T. SWERINGEN & Others.

63 *Answer of Martha T. Christy to the Interrogatories Exhibited by Mary Ann Wright.*

The said Martha J. Christy, in reply to the interrogatories filed by said Mary Ann Wright, answereth and saith:

To the first interrogatory she saith that the said William Christy in his lifetime made a lottery with the intention of distributing a certain portion of his real estate among his children & heirs, to wit, Edmund T. Christy, Mary Ann Wright, Matilda N. Walker, Harriet M. Dean, Howard F. Christy, Virginia M. Smith, & the heirs of his daughters Frances & Sarah, but that he afterwards abandoned the distribution of said property in that manner & never carried it into effect; that she, this respondent, believes that some of the allotments which were drawn to the names of one or two of the children (she thinks, perhaps, Edmund & Matilda) were deeded to them by said William after he had resolved not to carry the distribution by lottery into effect. Said William Christy said at the time that he abandoned the lottery because some of the children drew more front and valuable property than others, and that such a distribution would therefore be unequal and unjust, and this respondent is positive that said William never did carry the said lottery distribution into effect. The said William gave his children property as they seemed to be in need of it or made application for it, but he never did during his lifetime make any general distribution of any of his property among his children, by lottery or otherwise. The lottery referred to was drawn, as the said William told this respondent, out of — hat by respondent's granddaughter, Eliza Dean, in presence of said William and Judge Wash, in the year eighteen hundred thirty-five or six, but, as above stated, it was never carried into effect by an actual division or conveyance of the property.

2. To the second interrogatory she says that allotments of property were drawn to the names of all his children, but, the distribution of the property in that manner having been abandoned by him, the portions drawn to their names in the said lottery were
64 never distributed to the children. The property drawn in the lottery to the names of Edmund and Matilda was afterwards

given to them, not for the reason that they drew it in the lottery or that he, the said William, intended to carry the lottery into effect, but because they wanted possession of some property, & he was as willing to give them that drawn to their names in the abandoned lottery as any other. Some of the children complained to the said William Christy respecting the said Matilda & others getting the front or most valuable property, when he answered and said to them and to this respondent, that if any of the children chose to take or got front property *on* that which was more valuable than that which remained, it should be of no advantage to them, and that the next of his children should lose nothing, as any difference in the value of property would be made up to the rest of the children when they came to receive their portions at a final division of his property. This respondent further says that she does not know the particular allotments or portions of property drawn to the names of the said children respectively in said lottery.

3. To the third interrogatory she says that she believes that said lottery was drawn by said William in good faith & with the intention of distributing the real estate embraced in it according to said drawing & of making said distribution permanent, but that said William altered his mind & never carried it into effect.

To the fourth interrogatory she says that deeds were given to the said Edmund T. & to the said Matilda N. (and this respondent has also understood, to the said Martha T. Sweringen) for certain property allotted or drawn to their names in said lottery, but said deeds were given after he, the said William, had wholly abandoned the idea of a general distribution by the said lottery. He, the said William, would have deeded to the above-named persons any of the several blocks drawn in the name of said Mary Ann or of the said Virginia as soon as any of the several blocks drawn in their own name, if they had desired it.

To the fifth interrogatory she says that the said Mary Ann Wright drew in the said lottery to her own name certain portions of real property, about six blocks (being about an equal number with the other children), none of which portions were ever given or conveyed to her, the said lottery having been abandoned, as aforesaid. This respondent does not know whether the property which the said William sold for eleven thousand dollars, that he gave to said Mary Ann, was one of the several blocks which stood in her name on the plat of the said abandoned lottery or not.

6. As to the sixth interrogatory she saith that the said William Christy never did regard the said block or any other property drawn to the name of said Mary Ann in said lottery as her absolute property. This respondent remembers that said Mary Ann Wright complained to her father, the said William, that she needed pecuniary assistance, and the said William replied to her that he would sacrifice property to aid her, and he then offered to sell any of his property to raise money for her; to which offer the said Mary Ann answered that she could not consent to his sacrificing his property for her. The said William thereupon offered for sale at various times as much of his property (this respondent thinks it was a block

of ground) as he thought would bring the amount of money which the said Mary Ann needed; that he did not succeed in selling it until his sale of lots in his addition to St. Louis. Soon after that sale the said William gave to his said daughter, Mary Ann, the sum of eleven thousand and some two or three hundred dollars; which sum of money the said William told this respondent must be considered an advancement to the said Mary Ann Wright. In a conversation between this respondent and said William soon afterwards this respondent, commenting on that gift, asked him how he could give one child so much more than the others; to which he replied, "Not at all; not at all; the eleven thousand dollars is, of course, to be considered so much out of Mary Ann's portion of my estate."

66 7. In answer to the seventh interrogatory she says that she knows nothing further than that during the time when said William was trying to sell his property at a sacrifice to raise money for the said Mary Ann this respondent heard the said Mary Ann say to him: "Father, I do not want you to sacrifice your property for me; I cannot consent to it." To which he answered: "Mary Ann, if you can wait until my large sale, I can sell property to better advantage than when selling one block, and will then give you the money."

8. As to the eighth interrogatory she says that she knows nothing of the matters therein inquired of.

MARTHA T. CHRISTY.

COUNTY OF ST. LOUIS, *ss:*

Martha T. Christy, being duly sworn, on her oath saith that the foregoing answer is true.

MARTHA T. CHRISTY.

Sworn and subscribed before me this 10th July, 1840.

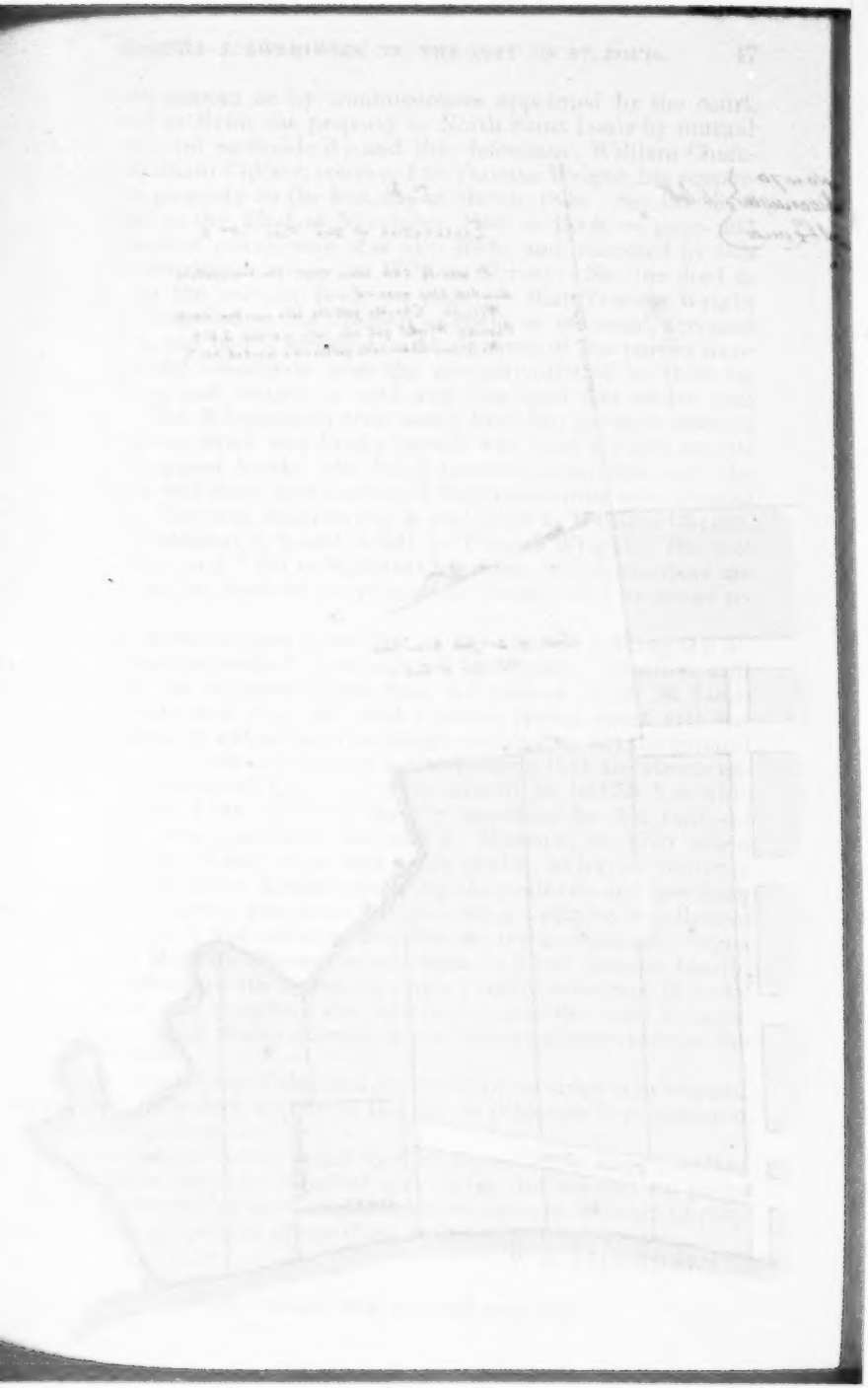
BENJ. F. McKINNEY,
Justice of the Peace, St. Louis County, Mo.

St. Louis County Court.

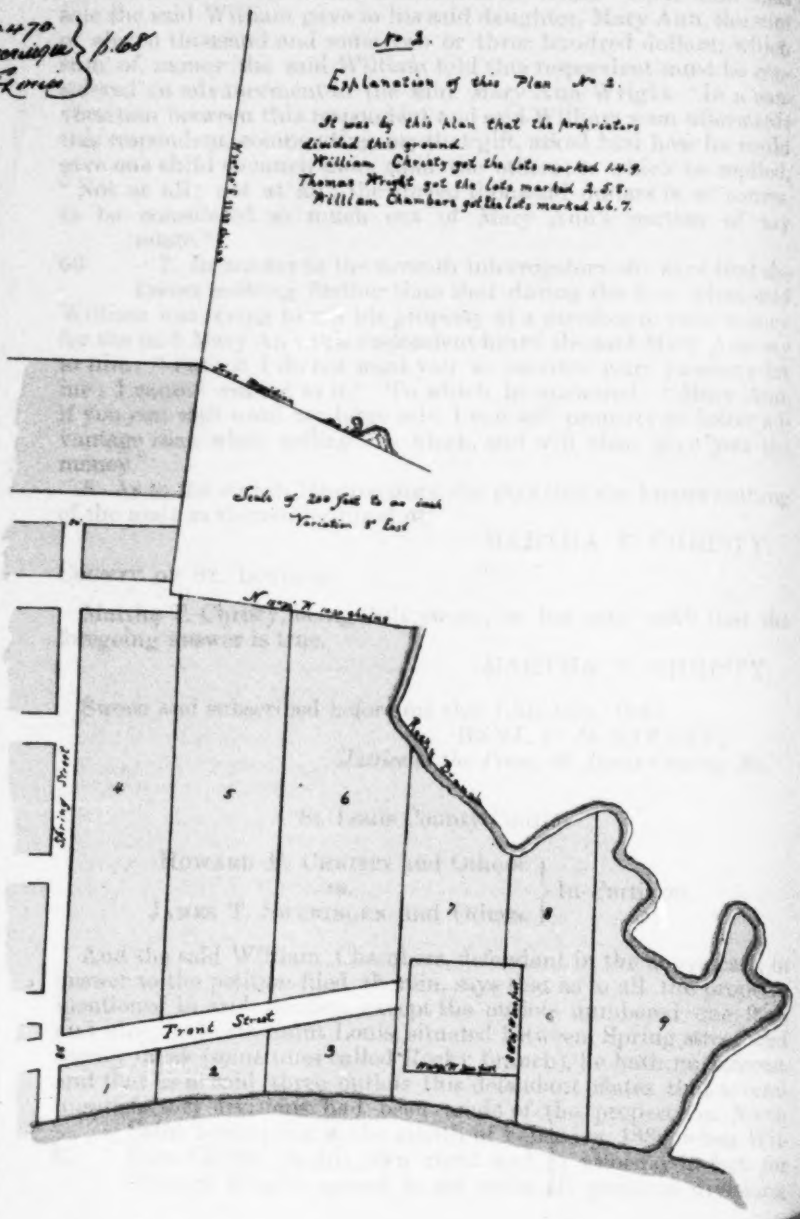
HOWARD F. CHRISTY and Others } In Partition.
vs.
JAMES T. SWERINGEN and Others. }

And the said William Chambers, defendant in the above case, in answer to the petition filed therein, says that as to all the property mentioned in said petition, except the outlots numbered one, four, and nine, in North Saint Louis, situated between Spring street and Stoney creek (sometimes called Rocky branch), he hath no interest, and that as to said three outlots this defendant states that several unsatisfactory divisions had been made of the property in North Saint Louis prior to the month of February, 1830, when Wil-

67 liam Christy, in his own right and as attorney-in-fact for Thomas Wright, agreed to set aside all previous divisions,



No 470
Chouteau
St Louis
} p. 68



whether by consent or by commissioners appointed by the court, and proceed to divide the property in North Saint Louis by mutual consent, and did so divide it; and this defendant, William Chambers and William Christy, conveyed to Thomas Wright his proportion of the property on the first day of March, 1830. See the deed as recorded on the 22nd of November, 1836, in Book —, page 463 & '4. A deed of conveyance was also made and executed by this defendant, bearing date ——, to William Christy. See the deed as recorded on the ——, in Book —, page —; that Thomas Wright afterwards acceeded to the division so made, as aforesaid, accepted of the deed, and had it recorded; and all three of the parties have since exercised ownership over the property allotted to them by that division, and bought or sold and conveyed lots under that division. This defendant further states that the ground situated between Spring street and Rocky branch was then divided, as will more fully appear by the plat No. 2, herewith exhibited, and the lots as there laid down and numbered from one to nine were divided as follows: The lots numbered 1, 4, and 9 fell to William Christy. The lots numbered 2, 5, and 8 fell to Thomas Wright. The lots numbered 3, 6, and 7 fell to William Chambers; which numbers are referred to in the deeds of conveyance to Christy, and as above referred to.

This defendant further states that at the time of making the division as above described it was agreed by Christy, Chambers, and Wright, by his attorney-in-fact, that the plan of North St. Louis should be extended over the land between Spring street and the Rocky branch by extending the streets and laying out the ground into lots, with a full and distinct understanding that the streets extending out westward from the river should be but 50 feet wide instead of 60. Nothing farther was done in this business
68 until this defendant returned to Missouri, in 1736, when William Christy expressed much anxiety to have a resurvey made of North Saint Louis, embracing the southern and northern enlargement thereof, preparatory to preparing a plat or plan thereof for record, and it was not until this defendant was repeatedly urged by the said William Christy, — was then in a bad state of health, that this defendant undertook to employ mathematicians to make the resurvey and to extend the subdivision over the land between Spring street and Rocky branch, as per the agreement made in the spring of 1830.

Which subdivision of the land north of Spring street into lots and streets will more fully appear by the plat or plan now here filed and marked number three.

This defendant further states that he expended in the execution of this agreement one hundred and eighty dollars, and he prays that the court will order the legal representatives of William Christy to pay their proportion of one-third of that sum.

WM. CHAMBERS.

(Here follows map marked page 68.)

69 Mr. ROBERT: You only offer the pleadings?
Mr. JOHNSON: Yes.

Mr. JOHNSON: I next offer decree made in the case, circuit court of the county of St. Louis.

Mr. ALLEN: Kindly give the book number and page.

Mr. J.: Recorded in Chancery Record Book #2, page 78—that is, the decree appointing commissioners in the case. The commissioners reported, including a plat of the premises during the fall, and report was confirmed by the court in January, and is the same Record Book #2, page 177.

Said decree appointing commissioners & confirming report and plat *were* read and *are* as follows:

SATURDAY, *January 30th*, 1841.

HOWARD F. CHRISTY, NATHANIEL P. TAYLOR, & MATILDA N., His Wife; Harriet M. B. Dean, Edwin B. Smith, & Virginia, His Wife; Henry S. Coxe & Mary Ann, His Wife; David D. Mitchell & Martha Eliza, His Wife, & Frances S. M. Wash, by Her Guardian, Robert Wash,

vs.

JAMES T. SWEARINGEN & MARTHA I., His Wife; MARY ANN Wright, Charles W. Schaumberg, & Orleana C., His Wife; William F. F. Wright, Martha Ann Wright, Thomas Wright, Mary Wright, & William Chambers.

Now, at this day, come the said Frances S. M. Wash, by her said guardian, and all the other parties, complainants and defendants, to this suit, by their respective solicitors, and pray the court to enter a decree herein ascertaining the rights of the said heirs and representatives of said William Christy, deceased, in the real estate in the bill mentioned, and the value and amount of the several advancements made by the said William Christy in his lifetime to be deducted from their respective shares.

Whereupon the court, with the consent of all the parties hereto to all the terms of this decree, doth order, adjudge, and decree
70 that said Martha T. Christy, the widow of said William Christy, deceased, is entitled to no interest in said lands and real estate in the bill mentioned in the partition of the same, she now agreeing to relinquish the same in favor of the heirs and consenting that the same shall be divided among them according to their respective rights; and the court doth further order, adjudge, and decree that said Matilda N. Taylor is entitled to thirteen-eighty-fourths of the lands and real estate in the bill prayed to be divided, from which is to be deducted eighteen thousand five hundred and forty-nine dollars and sixty-two cents, being the value of advancements on account of her share; that Mary Ann Wright is entitled to thirteen-eighty-fourths of the lands and real estate in the bill prayed to be divided, from which is to be deducted fourteen thousand one hundred and sixty-eight dollars and fifty cents, being the value of advancements on account of her share; that Howard F.

Christy is entitled to thirteen-eighty-fourths of the lands and real estate in the bill prayed to be divided, from which is to be deducted eight thousand nine hundred and sixty dollars and eighty-five cents, being the value of advancements on account of his share; that Harriet M. Dean is entitled to thirteen-eighty-fourths of the lands and real estate in the bill prayed to be divided, from which is to be deducted four thousand three hundred and seventy dollars and forty-two cents, being the value of advancements on account of her share; that Martha J. Swearingen is entitled to six-eighty-fourths of the land and real estate in the bill prayed to be divided, from which is to be deducted three thousand four hundred dollars, being the value of advancements on account of her share; that Mary Ann Coxe is entitled to thirteen two hundred and fifty-two parts of the lands and real estate in the bill prayed to be divided, from which is to be deducted one hundred and ninety-four dollars and thirty-three and one-third cents, being the value of advancements on account of her share; that Martha Eliza Mitchell is entitled to thirteen two hun-
71 dred and fifty-two parts of the lands and real estate in the bill prayed to be divided, from which is to be deducted one hundred and ninety-four dollars and thirty-three and one-third cents, being the value of advancements on account of her share; that Frances S. M. Wash is entitled to thirteen two hundred and fifty-two parts of the land and real estate in the bill prayed to be divided, from which is to be deducted one hundred and ninety-four dollars and thirty-three and one-third cents, being the value of advancements on account of her share; that Virginia M. Smith is entitled to thirteen-eighty-fourths of the lands and real estate in the bill prayed to be divided, and that no advancement- have ever been made on account of her share; and the court doth further order, adjudge, and decree that partition be made among the said heirs of William Christy, parties hereto, of the lands, tenements, and real estate in the bill prayed to be divided, according to their respective rights as herein ascertained, respect being had to the advancements as herein declared, which lands, tenements, and real estate to be divided are as follows, viz: "A tract of land lying in St. Louis county, Missouri, containing fifty arpens, being part of a larger tract of land granted by concession to Antoine Vincent Bouis and conveyed to said William Christy by deeds of Marie V. Bouis and Andre V. Bouis and others, dated, one of them, the nineteenth of April, the other dated the twenty-second of April, in the year eighteen hundred and sixteen, said fifty arpents bounded as follows: Beginning at a stake on the River Gingrass, a corner of said tract, thence up the said River Gingrass, with its meanders, to a certain point, and thence eastwardly, in a parallel line with the eastward line of Hyacinthe St. Cyr's tract, to the southward line of the tract of said grantees, and thence south forty-eight degrees west with said line to the beginning, so as to include the quantity of fifty arpents; also sundry lots and parcels of land lying in said county just northwardly
of the city of St. Louis and being portions of a tract of
72 land conveyed by Louis Labeaumme to William Chambers in the year eighteen hundred and sixteen, which portions (with

others disposed of by said Christy) were conveyed to William Christy in and by a certain deed of partition executed to him by William Chambers & Thomas Wright and wife, dated the first day of March, eighteen hundred and thirty, which lots and parcels of land are as follows, being numbered according to the plat of the town of North St. Louis with the enlargement thereof, to wit: lots numbered sixty-nine, seventy-four, seventy-seven, seventy-nine, eighty-four, ninety-four, ninety-six, one hundred and thirty-three, one hundred thirty-five, one hundred thirty-six, one hundred thirty-seven, one hundred forty-four, one hundred forty-five, one hundred forty-six, one hundred forty-seven, one hundred and eighty-eight, one hundred eighty-nine, one hundred ninety, one hundred ninety-one, one hundred ninety-two, one hundred ninety-three, two hundred, two hundred one, two hundred and five, two hundred forty-five, two hundred forty-six, two hundred forty-seven, two hundred forty-eight, two hundred forty-nine, two hundred and fifty, two hundred fifty-four, two hundred fifty-five, two hundred fifty-six, two hundred fifty-seven, two hundred and fifty-eight, two hundred and sixty, two hundred sixty-one, two hundred sixty-two, two hundred eighty-five, two hundred eighty-six, two hundred eighty-seven, two hundred eighty-eight, two hundred eighty-nine, and two hundred and ninety, said above-mentioned lots lying in North St. Louis being each eighty-feet front by one hundred and fifty feet deep; also the following outlots in North St. Louis, situated between Spring street and Stoney creek, viz: lots numbered one, four, and nine according to a plan and division of that part of the land, situate between Spring street and Stoney creek, made and agreed on the fifteenth of February, eighteen hundred and thirty; also a lot on the river shore bounded as follows: Beginning where a stake stands at high-water mark six feet eight inches south of
73 where the southern boundary line of lot number thirty-two, if continued, would strike the said high-water mark on the east edge of the lot set apart for a public walk; thence up the river with said east edge of the public walk, and with high-water mark, four hundred and thirty-three feet four inches to another stake at high-water mark, six feet eight inches north of where the northern boundary line of lot number twenty-nine would strike the river at high water; thence eastwardly on a line parallel to the said northern boundary line of said lot twenty-nine to the river; thence down the river four hundred and thirty-three feet four inches; thence westwardly on a line parallel to the southern boundary line of lot number thirty-two to the beginning, with all the rights and privileges of erecting wharves thereon, but not warehouses; also the following tract of land lying in St. Louis county, near and west of the city of St. Louis, containing upwards of seventy acres, described as follows: Beginning at a point in the northern edge of the St. Charles road two hundred and eighteen feet west of Twelfth street, thence running northwardly parallel with Twelfth street three hundred forty-nine feet three inches; thence westward- parallel with the St. Charles road four hundred thirty-six feet; thence northwardly parallel with Twelfth street three hundred forty-nine feet three inches to

Franklin avenue; thence westwardly with said avenue to the end of the forty-arpent field lots; thence southwardly along the west end of said field lots six hundred ninety-eight feet six inches to the St. Charles road; thence eastwardly with said road to the place of beginning, excepting, however, from the above tract four pieces of ground conveyed by said Christy in his lifetime, each being two hundred and eighteen feet wide and three hundred forty-nine feet three inches deep, three of which were conveyed to Orleana Wright, Martha Ann Wright, and Mary Frances Wright, and the other was conveyed to Matilda N. Taylor for Amelia C. Churchill, formerly Amelia C.
74 Walker; also a lot of ground lying in St. Louis fronting northwardly upon Franklin avenue twenty-five feet, including the easternmost tenement of the long brick row at the intersection of Fifth street and Franklin avenue, said lot running back southwardly about one hundred and eight feet, bounded west by the fourth tenement in said row, east by lots of N. P. Taylor and James Dean, and north by said Franklin avenue;" and for the purpose of carrying into effect the partition hereby ordered the court doth appoint William C. Carr, William Glasgow, Joseph C. Brown, Jesse G. Lindell, & Dennis Delaney as commissioners, who, or a majority of them, are hereby directed to examine said lands and real estate and make partition and allotment thereof, as aforesaid, with all convenient speed, so far as the same can be done, and to make report thereof to this court without delay.

HOWARD F. CHRISTY ET AL.
vs.
JAMES T. SWEARENGEN ET AL.

FRIDAY, *January* 6, 1843.

Now, at this day, come parties aforesaid, by their respective solicitors, and all and singular the matters and things upon the exceptions filed to the report of the commissioners herein being seen and heard, and also the evidence in relation thereto being considered, it is ordered and adjudged and decreed by the court that the exceptions to the said report of the commissioners be overruled, and the court doth moreover confirm and ratify the report of said commissioners, which is in the following words, to wit:

St. Louis Circuit Court.

HOWARD F. CHRISTY & Others
vs.
JAMES T. SWERINGEN, MARTHA T., His Wife, & Others. } In Partition in Chancery.

The undersigned, commissioners appointed by the St. Louis circuit court to make partition of the lands and tenements in the bill of complaint mentioned among the heirs of William Christy, deceased, having made affidavit as herewith returned, proceeded to view the said lands and to make the partition

in pursuance and conformity with the decree of this
75 court entered on the thirtieth day of January last, and as a necessary preliminary the- caused a survey and plat to be made of the tract of land, containing about seventy acres, lying to the west of the city of St. Louis, and subdivided the same into lots of convenient size, laying out from east to west through the centre thereof an eighty-foot street, being Morgan street continued, which plat is herewith returned, marked "A," as a part of this report. They also laid out cross-streets at convenient distances, all which appears on the face of said plat, together with the numbers and sizes of the said lots. They state that Morgan street, as it appears on the said map or plat, is occasionally narrower than the width above mentioned, which circumstance is owing to the disposition of sundry of those lots and portions of said tract by the testator in his life without leaving any street along where Morgan street is now laid out, and they have not on said plat extended that street across any such lot. They have, furthermore, subdivided the outlots lying in the tract of land formerly conveyed by Louis Labeaume to William Chambers, partition of which had been made between said Chambers and Thomas Wright and William Christy, and have caused a map or plat of North St. Louis, formerly laid out upon said tract with its extensions and the subdivisions, as aforesaid, made by the undersigned, which plat is herewith returned, marked B, as a part of this report, on which plat are laid down such streets in the part subdivided, as aforesaid, as they deemed it advisable to make for the benefit of those interested. They further state that they have run the lines between the said outlots belonging to Chambers, Wright, & Christy (division of which had been formerly made between them without a survey or measurement of the same. The outlots belonging to said Christy's estate, which they were required by said decree to dividee, were outlots numbered one, four, and nine. Outlot number one embraces block
76 number seven of this plat or map, outlot number four embraces block- numbered seventeen, forty-two, sixty-three, and sixty-six of this map, and outlot number nine embraces the land situate between the most northern fifty-foot street on this map and Stoney creek, and the commissioners believe that they have done full justice both to said William Chambers and to Thomas Wright, heirs & representatives, as well as to the heirs of William Christy, in establishing the said outlots and their boundaries. The undersigned, having carefully put a value upon all of said property, then proceeded to allot to the said heirs of William Christy their respective portions, taking into consideration the advancements as ascertained and declared by the court as a part of the portions of those to whom they had been made or were charged in the decree of the court, and they have allotted to said heirs their respective portions according to the decree, quantity and quality considered, justly & fairly, in their belief, as hereinafter set forth. To Matilda N. Taylor they assign and allot as follows: One lot or parcel of ground situated in the city of St. Louis, being a part of the aforesaid seventy-arpent tract and being lot numbered thirteen on map marked A, and

bounded as follows: on the north by Franklin avenue, east by lot number eleven on said map marked "A," south by an extension of Morgan street, and west-ly by a street laid out on said map, called Fifteenth street, said lot being one hundred and eighty feet in front by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, being lot numbered twenty-three on said map marked "A," and bounded as follows: north by Franklin avenue, east-ly by a street laid out on said map, called Seventeenth street, south by an extension of Morgan street, and west by lot numbered twenty-five on said map, being one hundred and eighty-eight feet in front by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, being lot numbered thirty-four on said map marked "A," and bounded as follows: north by an
77 extension of Morgan street, east by lot numbered thirty-two on said map, south by the St. Charles road, and west by a street laid out upon said map, called Twentieth street, being one hundred and eighty feet in front by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, being lot numbered forty-six on said map marked A, and bounded as follows: north by an extension of Morgan street, east by a lot numbered forty-four upon said map, south by the St. Charles road, and west by a street laid out and upon said map, called Twenty-third street; also one other lot or parcel of ground situated in North St. Louis, so called, and being lot numbered one hundred and eighty-eight on said map marked B, and bounded as follows: on the north by lot numbered one hundred and eighty-nine on said map, on the east by lot numbered one hundred and forty-seven on said map, on the south by a street called Green street, laid out upon said map, and on the west by Fifth street as laid out upon said map, being eighty feet front on Fourth street and one hundred and fifty feet in depth, said lot being in block forty-five as laid down upon said map; also one other lot situated in North St. Louis, in block numbered forty-four upon said map marked "B" and being lot numbered one hundred and ninety-one on said map, bounded as follows: north by lot numbered one hundred and ninety-two on said map, east by lot numbered one hundred and forty-four on said map, west by Fourth street as laid down upon said map, and south by Warren street as laid down upon said map, being eighty feet front on said Fourth street and one hundred and fifty feet deep; also one other lot situated in North St. Louis, in block numbered sixty-one on said map marked B, being lot numbered two hundred and forty-eight on said map, and bounded as follows: north by lot numbered two hundred and forty-nine on said map, east by lot numbered two hundred and two on said map, south by a street called Warren street as laid down upon said map, and west by a street called Fifth street as laid down upon said map, being eighty feet front on said Fifth street by one hun-
78 dred and fifty feet deep; also one other lot situated in North St. Louis, in block numbered sixty-one upon said map marked B, being lot numbered two hundred and forty-nine upon said map, being bounded as follows: north by lot numbered two hundred and fifty on said map, east by lot numbered two hundred and fifty-one

on said map, south by lot numbered two hundred and forty-eight and west by a street called Fifth street upon said map, being eighty feet front on said Fifth street by one hundred and fifty feet deep; also one other lot in said North St. Louis, in block numbered seventeen upon said map marked B, being lot numbered three hundred and nine, and bounded as follows: north by lot numbered three hundred and eight upon said map, east by a street called Second street as laid down upon said map, south by a street called Spring street as laid down upon said map, and west by a lot numbered three hundred and ten on said map, said lot being eighty feet two inches front on said Second street and one hundred *and one hundred* and fifty feet deep; also one other lot in said North St. Louis, in block numbered sixty-three upon said map marked B, being lot numbered three hundred and sixty upon said map, and bounded as follows: north by lot numbered three hundred and fifty-nine upon said map, east by a street called Fourth street upon said map, south by lot numbered three hundred and sixty-one upon said map, and west by lot numbered three hundred and sixty-three upon said map, being eighty feet front on said Fourth street by one hundred and fifty feet deep; to have and to hold the same unto her and to her heirs and assigns forever as her portion of the land divided. The allotment is less, however, by twenty dollars thirty-seven cents than her portion, which sum can be made up to her out of the proceeds of certain lands hereinafter reported to have been sold.

To Mary Ann Wright they assign and allot as follows, viz: One lot or parcel of land situated in the city of St. Louis, in said seventy arpent tract, and being lot numbered nine on map marked A, and bounded as follows: North by Franklin avenue, east by lot
79 numbered seven upon said map, south by an extension of Morgan street, and west by a street laid down upon said map, called Fourteenth street, said lot being one hundred and eighty-eight feet front upon Franklin avenue by three hundred and nine feet three inches deep; also one other lot in said seventy-arpent tract, being lot numbered twenty-four upon said map marked A, and bounded as follows: north by an extension of Morgan street, east by a street laid down upon said map, called Seventeenth street, south by the St. Charles road, and west — lot numbered twenty-six upon said map, said lot being one hundred and eighty feet front on the St. Charles road by three hundred and nine feet three inches in depth; also one other lot, being a part of the aforesaid seventy-arpent tract, and being lot numbered thirty-two on said map marked A, and bounded as follows: north by an extension of Morgan street, east by a street laid out upon said map, called Nineteenth street, south by the St. Charles road, and west by lot numbered thirty-four on said map, said lot being one hundred and eighty-eight feet in front on St. Charles road by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, being lot numbered forty-seven on said map marked A, and bounded north by Franklin avenue, east by a street laid down on said map, called Third street, south by an extension of Morgan street, and west by the St. Charles road, said lot being three hundred and seventy-three

feet four inches front on Franklin avenue, running back three hundred and nine feet three inches to a width upon an extension of Morgan street of two hundred and eighty-six feet three inches; also one other lot in said North St. Louis, so called, in block numbered seven upon said map marked B, and numbered nineteen upon said map, bounded as follows: north by lot numbered twenty upon said map, east by the River Mississippi, south by a street laid down upon said map as Spring street, and west by a street laid down upon said map as Second street, said lot being eighty feet two inches front on said Second street, extending back two hundred
80 and forty feet, more or less, to the River Mississippi; also one other lot, in block numbered thirty-seven upon said map marked B and numbered one hundred and thirty-seven upon said map, and bounded as follows: north by lot numbered one hundred and thirty-eight upon said map, east by lot numbered eighty upon said map, south by lot numbered one hundred and thirty-six upon said map, and west by a street laid down upon said map as Third street, said lot being eighty feet front on said Third street by one hundred and fifty feet deep; also one other lot in said North St. Louis, in block forty-five upon said map, bounded as follows: north by lot numbered one hundred and forty-five, east by a street laid down upon said map as Third street, south by a lot numbered one hundred and forty-seven upon said map, and west by a lot numbered one hundred and eighty-nine upon said map, said lot being eighty feet front upon said Third street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block numbered sixty-nine upon said map marked B and numbered two hundred and sixty-two upon said map, bounded as follows: north by lot numbered two hundred and sixty-one, east by a street laid down upon said map as Fifth street, south by a street laid down upon said map as Green street, and west by a street laid down upon said map as Sixth street, said lot being eighty feet in front on said Fifth street by one hundred and fifty feet deep; also one other lot in said North St. Louis, in block numbered seventeen upon said map marked B, numbered three hundred and twelve upon said map, and bounded as follows: north by a street laid down upon said map as Bright street, east by a lot numbered three hundred and seven upon said map, south by lot numbered three hundred and eleven upon said map, and west by a street laid down upon said map as Third street, said lot being eighty feet in front upon said Third street by one hundred and forty-two feet one inch, more or less, in depth; also one other lot in said North St. Louis, in block sixty-six upon said map marked B, numbered three hundred and sixty-five upon said map
81 and bounded as follows: north by a lot numbered three hundred and sixty-six upon said map, east by a street laid down upon said map as Fifth street, south by a street laid down upon said map as Spring street, and west by a street laid down upon said map as Sixth, said lot being eighty *foot* front upon said Fifth street by one hundred and fifty feet in depth; to have and to hold the same, with all rights, privileges, and appurtenances thereto be

longing, unto her, the said Mary Ann Wright, and to her heirs and assigns forever, as her portion of the lands divided. This allotment exceeds Mary Ann Wright's portion by eighty-three dollars fifty-one cents, which excess can be rectified in the distribution of the proceeds of the sale of certain real estate which could not be divided, as hereinafter set forth.

To Howard F. Christy the undersigned commissioners assign and allot as follows, to wit: One lot or parcel of ground situated in the city of St. Louis and being a part of said seventy-arpent tract, being lot numbered six on said map marked A, and bounded as follows: north by an extension of Morgan street, south by the St. Charles road, east by lot numbered four upon said map, and west — a street laid down upon said map called Thirteenth street, said lot being one hundred and eighty feet front on the St. Charles road by three hundred and nine feet three inches depth; also one other lot or parcel of ground being in said seventy-arpent tract and marked upon said map A as numbered eleven, and bounded as follows: north by Franklin avenue, east — a street laid down upon said map as Fourteenth street, south by an extension of Morgan street, and west by lot numbered thirteen upon said map, said lot being one hundred and eight feet front on Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, being lot numbered thirty upon said map marked A, and bounded as follows: north by an extension of Morgan street, east by lot numbered twenty-eight upon said map, south by the St. Charles
82 road, and west by a street laid down upon said map, called Nineteenth street, said lot being one hundred and eighty feet front on St. Charles road by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered upon said map marked A thirty-five, and bounded as follows: on the north by Franklin avenue, on the east by a street laid out upon said map as Twentieth street, south by an extension of Morgan street, and west by lot numbered thirty-seven on said map, said lot being one hundred and eighty-eight feet front on Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered forty-four upon said map marked A, and bounded as follows: north by an extension of Morgan street, east by a street laid down upon said map as Twenty-second street, south by the St. Charles road, and west by lot numbered forty-six upon said map, said lot being one hundred and eighty-eight feet front on St. Charles road by three hundred and nine feet three inches in depth; also one other lot or parcel of ground situated in North St. Louis, so called, in block numbered seven upon said map marked B, and being lot numbered twenty-one on said map, bounded as follows: on the north by a street laid down upon said map, called Wright street, east by the River Mississippi, south by lot numbered twenty-one upon said map, and west by a street laid down upon said map as Second street, said lot being eighty feet two inches front on said Second street and running back to the river; also one other lot situated in North St. Louis, in block numbered sixty-seven on said map marked B, and being lot num-

bered two hundred and fifty-six on said map, bounded as follows: north by lot numbered two hundred and fifty-five on said map, east by a street laid down upon said map as Fifth street, south by a street laid down upon said map as Montgomery street, and west by a street laid down upon said map as Sixth street, said lot being eighty feet front on said Fifth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block
83 forty-two, numbered upon said map marked B three hundred and thirty-nine, and bounded as follows: north by a street laid down upon said map as Wright street, east by a street laid down upon said map as Third street, south by a lot numbered upon said map three hundred and forty, and west by lot numbered upon said map three hundred and forty-four, being eighty feet front on said Third street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block forty-two upon said map marked B, numbered three hundred and forty upon said map, and bounded as follows: north by lot numbered upon said map three hundred and thirty-nine, east by a street laid down upon said map as Third street, south by lot numbered three hundred and forty-one upon said map, and west by lot numbered three hundred and forty-three upon said map, said lot being eighty feet front upon said Third street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block forty-two upon said map marked B, numbered three hundred and forty-one upon said map, and bounded as follows: north by lot numbered upon said map three hundred and forty, east by a street laid down upon said map as Third street, south by a street laid down upon said map as Spring street, and west by a lot numbered three hundred and forty-two, said lot being eighty feet front upon said Third street by one hundred and fifty feet in depth; also one other lot or parcel of ground situated in said North St. Louis, in block forty-two upon said map marked B, and numbered three hundred and forty-two upon said map, and bounded as follows: north by lot numbered three hundred and forty-three upon said map, east by lot numbered three hundred and forty-one, south by a street laid down upon said map as Spring street, and west by a street laid down upon said map as Fourth street, said lot being eighty feet front on said Fourth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, being in block forty-two upon said map marked B, and numbered upon said map three hundred and forty-three, and bounded as follows:
84 north by lot numbered three hundred and forty-four upon said map, east by lot numbered three hundred and forty upon said map, south by lot numbered three hundred and forty-two upon said map, and west by a street laid down upon said map as Fourth street, said lot being eighty feet front on said Fourth street by one hundred and fifty feet deep; also one other lot in said North St. Louis, in block forty-two upon said map marked B and numbered three hundred and forty-four, and bounded as follows: north by a street laid down upon said map as Wright street, east by lot numbered three hundred and thirty-nine upon said map, south by lot numbered three hundred and forty-three, and west by a street

laid down upon said map as Fourth street, said lot being eighty feet front on said Fourth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block sixty-three upon said map marked B and numbered three hundred and fifty-nine upon said map, and bounded as follows: north by a street laid down upon said map as Wright street, east by a street laid down upon said map as Fourth street, south by a lot numbered three hundred and sixty upon said map, and west by a lot numbered upon said map three hundred and sixty-four, said lot being eighty feet front on said Fourth street by one hundred and fifty feet in depth; to have and to hold the same, with all the rights, privileges, and appurtenances thereto belonging, unto him, the said Howard F. Christy, & to his heirs and assigns forever. This allotment exceeds said Howard F. Christy's due portion of the lands divided by twenty-five dollars eighty-six cents, which may be adjusted by the proceeds of sale.

To Mrs. Harriet M. Dean the said commissioners assign and allot as follows, viz: One lot or parcel of ground situated in the city of St. Louis, in the said seventy-arpent tract, being lot numbered ten on said map marked A, and bounded as follows: north by an extension of Morgan street, east by lot numbered eight upon said
85 map, south by the St. Charles road, and west by Fourteenth street as laid down upon said map, said lot being one hundred and eighty-eight feet in front on St. Charles road by three hundred and nine feet three inches in depth; also one other lot, being a part of said seventy-arpent tract and numbered fourteen upon said map marked A, and bounded as follows: north by an extension of Morgan street, east by lot numbered twelve upon said map, south by the St. Charles road, and west by a street laid down upon said map as Fifteenth street, said lot being one hundred and eighty-eight feet front upon St. Charles road by three hundred and nine feet three inches in depth; also one other lot, being a part of said seventy-arpent tract and numbered twenty on said map, bounded as follows: north by an extension of Morgan street, east by a street laid down upon said map as Sixteenth street, south by the St. Charles road, and west by lot numbered twenty-two on said map, said lot being one hundred and eighty-eight feet in front on said Morgan street by three hundred and nine feet three inches in depth; also one other lot, being a part of said seventy-arpent tract and numbered twenty-two upon said map marked "A," bounded as follows: north by an extension of Morgan street, east by a lot numbered twenty upon said map, south by the St. Charles road, and west by a street laid down upon said map as Seventeenth street, said lot being one hundred and eighty-eight feet front on said Morgan street by three hundred and nine feet three inches in depth; also one other lot, being a part of said seventy-arpent tract, numbered thirty-seven upon said map marked A, bounded as follows: north by Franklin avenue, east by lot numbered thirty-five on said map, south by an extension of Morgan street, and west by a street laid out upon said map as Twenty-first street, being one hundred and eighty feet in front on Franklin avenue by three hundred and nine feet three

inches in depth; also one other lot in North St. Louis, so called,
in block eighteen, numbered seventy-seven upon said map
86 marked B, bounded as follows: north by lot numbered upon
said map seventy-eight, east by street eighty feet wide, as appears by map B, south by lot numbered seventy-six on said map, and west by Second street as laid down upon said map, said lot being eighty feet front on said Second street and extending back to said street eighty feet wide; also one other lot in said street eighty feet wide; also one other lot in said North St. Louis, in block numbered thirty-six upon said map marked B and numbered eighty-four upon said map, and bounded as follows: north by lot numbered eighty-three, east by a street laid down upon said map as Second street, south by a street laid down upon said map as Warren street, and west by lot numbered one hundred and thirty-three upon said map, and said lot being eighty feet front upon said Second street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block thirty-two upon map marked B, numbered ninety-four upon said map, and bounded as follows: north by a street laid down upon said map as Washington street, east by a street laid down upon said map as Second street, south by a lot numbered ninety-five, and west by lot numbered one hundred and twenty-three upon said map, said lot being eighty foot front upon said Second street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block numbered thirty-six upon said map marked B and numbered one hundred and thirty-five upon said map, and bounded as follows: north by a street laid down upon said map as Montgomery street, east by a lot numbered eighty-two upon said map, south by lot numbered one hundred and thirty-four upon said map, and west by a street laid down upon said map as Third street, said lot being eighty feet in front upon said Third street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block numbered forty-five and numbered one hundred and eighty-nine upon said map marked B, bounded as follows: north by the lot numbered upon said map one hundred and ninety,
east by lot numbered one hundred and forty-six, south by
87 lot numbered upon said map one hundred and eighty-eight,
and west by a street laid down upon said map as Fourth street, said lot being eighty feet front on said Fourth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block numbered forty-four upon said map marked B and numbered one hundred and ninety-two, and bounded as follows: north by lot numbered one hundred and ninety-three, east by lot numbered one hundred and forty-three, south by lot numbered one hundred and ninety one upon said map, and west by a street laid down upon said map as Fourth street, said lot being eighty feet in front upon said Fourth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block sixty-one upon said map marked B and number two hundred upon said map, bounded as follows: north by a street laid down upon said map as Montgomery street, east by a street laid down upon said map as Fourth street, south by a lot numbered two hundred and one upon

said map, and west by a lot numbered two hundred and fifty upon said map, said lot being eighty feet in front upon said Fourth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block sixty-one and numbered two hundred and one upon said map marked B, bounded as follows: north by lot numbered two hundred upon said map, east by a street laid down upon said map as Fourth street, south by a lot numbered two hundred and two upon said map, and west by lot numbered two hundred and forty-nine upon said map, said lot being eighty feet in front on said Fourth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block sixty-eight, numbered two hundred and fifty-eight upon said map marked B, bounded as follows: north by lot numbered two hundred and fifty-seven upon said map, east by a street laid down upon said map as Fifth street, south by a lot numbered four hundred and fifty-nine, and west by a street laid down upon said map as Sixth street, said lot being eighty feet front on said Fifth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis
88 numbered upon said map marked B two hundred and eighty-five, bounded as follows: west by lot numbered two hundred and ninety upon sa d map, north by a street laid down upon said map as Green street, east by a street laid down upon said map as Sixth street, and south by a street laid down upon said map surrounding public grounds, said lot being one hundred and fifty feet upon said Green — and running back to said *to said* street surrounding the public grounds; also one other lot in said North St. Louis numbered two hundred and eighty-six upon said map marked B, bounded as follows: north by a street laid down upon said map surrounding the public grounds, east by a street laid down upon said map as Sixth street, south by a street laid down upon said map as Green street, and west by lot numbered two hundred and eighty-nine upon said map, said lot being one hundred and fifty feet upon said Green street and running back the same width to the street surrounding the public grounds; also one other lot in said North St. Louis, in block seventeen and numbered three hundred and eight upon said map marked B, bounded as follows: north by lot numbered three hundred and seven upon said map, east by a street laid down upon said map as Second street, south by a lot numbered three hundred and nine upon said map, and west by lot numbered three hundred and eleven upon said map, said lot being eighty feet two inches in front on said Second street by one hundred and fifty feet, more or less, in depth; also one other lot in said North St. Louis, in block sixty-three and numbered three hundred and sixty-three upon said map marked B, bounded as follows: north by lot numbered three hundred and sixty-four, east by lot numbered three hundred and sixty, south by lot numbered three hundred and sixty-two upon said map, and west by Fifth street as laid down upon said map, said lot being eighty feet in front upon said Fifth street by one hundred and fifty feet deep; to have and to hold the same, with all rights, privileges, and appurtenances thereto belonging, unto her, the said

Harriet, and to her heirs and assigns forever. This allotment
89 is less than her portion by fourteen dollars and fifty-seven cents, to be adjusted out of the proceeds of sale. To Martha T. Sweringen the said commissioners assign and allot as follows, viz: One lot or parcel of ground situated in the city of St. Louis, in said seventy-arpent tract, and numbered eighteen upon said map A, bounded as follows: north by an extension of Morgan street, east by a lot numbered sixteen upon said map, south by the St. Charles road, and west by a street laid down upon said map as Sixteenth street, said lot being one hundred and eighty-eight feet in front on Morgan street by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered twenty-seven upon said map marked A, and bounded as follows: north by Franklin avenue, east by a street laid down upon said map as Eighteenth street, south by an extension of Morgan street, and west by lot numbered twenty-nine upon said map, said lot being — feet in front upon said Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered forty-two upon said map marked A, bounded as follows: north by an extension of Morgan street, east by lot numbered forty, south by St. Charles —, and west by a street laid out upon said map as Twenty-second street, said lot being one hundred and eighty-eight feet in front upon said Morgan street by three hundred and nine feet three inches in depth; also one other lot on said seventy-arpent tract, numbered forty-five upon said map marked A, bounded as follows: north by Franklin avenue, east by lot numbered forty-three upon said map, south by an extension of Morgan street, and west by a street laid down upon said map as Twenty-third street, said lot being one hundred and eighty-eight feet in front upon Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in North St. Louis, so called, in block thirty-six, and numbered one hundred and thirty-three upon said map marked B, bounded as follows: north by lot
90 numbered one hundred and thirty-four upon said map, east by lot numbered eighty-four upon said map, south by a street laid down upon said map as Warren street, and west by a street laid down on said map as Third street, said lot being eighty feet front upon said Third street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block forty-four, numbered one hundred and forty-four upon said map marked B, and bounded as follows: north by lot numbered one hundred and forty-three upon said map, east by a street laid down upon said map as Third street, south by a street laid down upon said map as Warren street, and west by lot numbered one hundred and ninety-one upon said map, said lot being eighty feet in front upon said Third street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block sixty, and numbered two hundred and forty-six upon said map marked B, and bounded as follows: north by lot numbered two hundred and forty-seven upon said map, east by lot numbered two hundred and four upon said map, south by lot numbered two hundred and forty-five upon said map, and west by a

street laid down upon said map as Fifth street, said lot being eighty feet in front upon said Fifth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block sixty-seven, and numbered two hundred and fifty-four upon said map marked B, bounded *as follows: north by a street laid* down upon said map called spring street, east by a street laid down upon said map as Fifth street, south by lot numbered two hundred and fifty-four upon said map, and west by a street laid down upon said map as Sixth street, said lot being eighty feet front on said Sixth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block sixty-seven, and numbered two hundred and fifty-five upon said map marked B, and bounded as follows: north by lot numbered two hundred and fifty-four upon said map, east by street laid down upon said map as Fifth street, south by lot numbered two hundred and fifty-six upon said map, and west by a street laid down upon said map as Sixth street, said lot being
91 eighty feet front upon said Fifth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, numbered two hundred and eighty-nine upon said map marked B, and bounded as follows: north by a street laid down upon said map surrounding the public grounds, east by lot numbered two hundred and eighty-six, south by a street laid down upon said map as Green street, and west by a street laid down upon said map as Seventh street, said lot being one hundred and fifty feet on said Green street and running back to said street surrounding said public grounds the same width; also one other lot in said North St. Louis, in block sixty-six, and numbered three hundred and sixty-seven upon said map marked B, bounded as follows: north by the line of said North St. Louis tract as appears by said map, east by a street laid down upon said map as Fifth street, south by a lot numbered three hundred and sixty-six, and west by a street laid down upon said map as Sixth street, said lot being sixty-three feet front on said Sixth street and running back one hundred and fifty feet to said Fifth street to a width upon said street of forty-six feet ten inches; to have and to hold the same, with all rights, privileges, and appurtenances thereto belonging, unto her, the said Martha T. Sweringen, and to her heirs and assigns forever. This allotment is six dollars fifty-five cents greater in value than her due portion, to be rectified as above mentioned out of proceeds of sales.

To Mary Ann Coxe the said commissioners assign and allot as follows, viz: One lot or parcel of ground situated in the city of St. Louis, in the seventy-arpent tract, numbered twenty-one upon said map marked A, and bounded as follows: north by Franklin avenue, east by lot numbered nineteen upon said map, south by an extension of Morgan street, and west by a street laid — upon said map as Seventeenth street, said lot being one hundred and eighty-eight feet *in* front on Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in the said seventy-arpent tract, num-
92 bered twenty-five upon said map marked A, and bounded as follows: north by Franklin avenue, east by lot numbered twenty-three upon said map, south by an extension of Morgan

street, and west by a street laid down upon said map as Eighteenth street, said lot being one hundred and eighty-eight feet on said Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered thirty-eight upon said map marked A, and bounded as follows: north by an extension of Morgan street, east by lot numbered thirty-six upon said map, south by the St. Charles road, west by a street laid down upon said map as Twenty-first street, said lot being one hundred and eighty-eight feet front on said Morgan street by three hundred and nine feet three inches in depth; also one other lot in said North St. Louis tract, in block thirty-seven, numbered one hundred and thirty-six upon said map marked B, bounded as follows: north by lot numbered one hundred and thirty-seven upon said map, east by lot numbered eighty-one upon said map, south by a street laid out upon said map as Montgomery street, and west by a street laid down upon said map as Third street, said lot being eighty feet in front upon said Third street by one hundred and fifty feet in depth; also one other lot in said North St. Louis tract, in *book* forty-four, numbered one hundred and ninety-three upon said map marked B, and bounded as follows: north by a street laid down upon said map as Montgomery street, east by lot numbered one hundred and forty-two upon said map, south by lot numbered one hundred and ninety-two, and west by a street laid down upon said map as Fourth street, said lot being eighty feet in front upon said Fourth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis tract, in block sixty, numbered two hundred and five upon said map marked B, and bounded as follows: north by lot two hundred and four upon said map, east by a street laid down upon said map as Fourth street, south by a street laid down upon said map as Green street, and west by lot numbered two hundred and
93 forty-five upon said map, said lot being eighty feet in front upon said Fourth street by one hundred and fifty in depth; also one other lot in said North St. Louis tract, in block sixty, numbered two hundred and forty-five upon said map marked B, and bounded as follows: north by lot numbered two hundred and forty-six upon said map, east by lot numbered two hundred and five upon said map, south by a street laid down upon said map as Green street, and west by a street laid down upon said map as Fifth street, said lot being eighty feet front upon said Fifth street by one hundred and fifty feet deep; also one other lot in said North St. Louis tract, in block sixty, numbered two hundred and forty-seven upon said map marked B, and bounded as follows: north by a street laid down upon said map as Warren street, east by a lot numbered two hundred and three upon said map, south by lot numbered two hundred and forty-six upon said map, and west by a street laid down upon said map as Fifth street, said lot being eighty feet in front upon said Fifth street by one hundred and fifty feet in depth; to have and to hold the same unto her, the said Mary Ann Coxe, and to her heirs and assigns forever, as her portion of the lands divided. This allotment is less than her due portion by eight dollars ninety-nine

and two-third cents, to be adjusted in the distribution of the proceeds of the sales of the lands.

To Martha Eliza Mitchell the said commissioners assign and allot for her portion as follows, viz: A lot or parcel of ground situated in the city of St. Louis, in the seventy-arpent tract, numbered seventeen upon said map marked A, and bounded as follows: north by Franklin avenue, east by lot numbered fifteen upon said map, south by an extension of Morgan street, and west by a street laid down upon said map as Sixteenth street, said lot being one hundred and eighty feet in front upon said Franklin avenue by three hundred and nine feet three inches; also one other lot in said seventy-arpent tract, numbered
94 thirty-three upon said map marked A, and bounded as follows: north by Franklin avenue, east by lot numbered thirty-one upon said map, south by an extension of Morgan street, and west by the street laid down upon said map at Twentieth street, said lot being one hundred and eighty-eight feet in front upon Franklin avenue by three hundred nine feet three inches in depth; also one other lot in said seventy-arpent tract and numbered thirty-six upon said map marked "A," and bounded as follows: north by the extension of Morgan street, east by the street laid down upon said map as Twentieth street, south by the St. Charles road, and west by lot numbered thirty-eight upon said map, said lot being one hundred and eighty-eight feet in front upon said extension of Morgan street by three hundred and nine feet three inches in depth; also one other lot in the said North St. Louis tract, in block seven, numbered twenty upon said map marked B, bounded as follows: north by lot numbered twenty-one upon said map, east by the Mississippi river, south by lot numbered nineteen, and west by a street laid down upon said map as Second street, said lot being eighty feet two inches in front upon said Second street, running back two hundred and thirty feet, more or less, to said river; also one other lot in said North St. Louis tract, in block sixty-one, numbered two hundred and fifty upon said map marked B, bounded as follows: north by a street laid down upon said map as Montgomery street, east by lot numbered two hundred upon said map, south by lot numbered two hundred and forty-nine upon said map, and west by a street laid down upon said map as Fifth street, said lot being eighty feet in front upon said Fifth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis tract, in block sixty-six, numbered three hundred and sixty-six upon said map marked B, bounded as follows: north by lot numbered three hundred and sixty-seven, east by a street laid down upon said map as Fifth street, south by lot numbered three hundred and sixty-five,
95 and west by a street laid down upon said map as Sixth street, said lot being eighty feet front upon said Sixth street by one hundred and fifty feet in depth; to have and to hold the said lot of ground, with all rights, privileges, and appurtenances thereto belonging, unto her, the said Martha Eliza Mitchell, and to her heirs and assigns forever, as her portion of the lands divided. This allot-

ment is more by one dollars than her just apportionment, to be adjusted in the distribution of the proceeds of the sale.

To Frances S. M. Wash said commissioners assign and allot as her portion as follows, viz: One lot or parcel of ground situated in the city of St. Louis, in the seventy-arpent tract, being lot numbered sixteen upon said map marked A, bounded as follows: north by an extension of Morgan street, east by a street laid down upon said map as Fifteenth street, south by the St. Charles road, and west by lot numbered eighteen upon said map, said lot being one hundred and eighty-eight feet front upon said extension of Morgan street by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, being lot numbered thirty-one upon said map marked A, bounded as follows: north by Franklin avenue, east by a street laid down upon said map as Nineteenth street, south by an extension of Morgan street, and west by lot numbered thirty-three upon said map, said lot being one hundred and eighty-eight feet in front upon Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, being lot numbered forty-eight upon said map marked A, bounded as follows: north by an extension of Morgan street, east by a street laid down upon said map as Twenty-third street, south by the St. Charles road, and west by the St. Charles road as appears upon said map, said lot being two hundred and sixty-three feet nine inches in front upon said extension of Morgan street and running back three hundred and nine feet three inches to the St. Charles road, with a width upon said road of one hundred and seventy-seven
96 feet two inches; also one other lot in said North St. Louis tract, in block forty-five, numbered one hundred and ninety upon said map marked B, and bounded as follows: north by a street laid down upon said map as Warren street, east by lot numbered one hundred and forty-five upon said map, south by lot numbered one hundred and eighty-nine upon said map, and west by a street laid down upon said map as Fourth street, said lot being eighty feet in front on said Fourth street by one hundred and fifty in depth; also one other lot in said North St. Louis tract, in block sixty-nine, numbered two hundred and sixty upon said map marked B, and bounded as follows: north by a street laid down upon said map as Warren street, east by a street laid down upon said map as Fifth street, south by lot numbered two hundred and sixty-one upon said map, and west by a street laid down upon said map as Sixth street, said lot being eighty feet in front upon said Fifth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis tract, in block sixty-nine, numbered two hundred and sixty-one upon said map marked B, and bounded as follows: north by lot numbered two hundred and sixty upon said map, east by a street laid down upon said map as Fifth street, south by lot numbered two hundred and sixty-two upon said map, and west by a street laid *laid* down upon said map as Sixth street, said lot being eighty feet in front upon said Fifth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, numbered two hundred and ninety upon said map marked B, and bounded as follows:

north by a street laid down upon said map as Green street, east by lot numbered two hundred and eighty-five, south by a street laid down upon said map surrounding the public grounds, and west by a street laid down upon said map as Seventh street, said lot being one hundred and fifty feet in front upon said Green street and running back to the said street surrounding the public grounds; also one other lot in said North St. Louis
97 tract, in block seventeen, numbered three hundred and seven upon said map marked B, and bounded as follows: north by a street laid down upon said map as Wright street, east by a street laid down upon said map as Second street, south by a lot numbered three hundred and eight upon said map, and west by lot numbered three hundred and twelve upon said map, said lot being eighty feet two inches front upon said Second street by one hundred and forty-two feet one inch, more or less, in depth; to have and to hold the same unto the said Francis S. M. Wash & to her heirs and assigns forever as her portion of said lands divided. This allotment is less by sixty-two dollars ninety-nine and two-thirds cents, then due her portion, to be adjusted on the distribution of the proceeds of sales.

To Virginia M. Smith said commissioners assign and allot for her portion as follows, viz: One lot or parcel of ground situated in the city of St. Louis, in the seventy-arpent tract, numbered eight upon said map marked A, and bounded as follows: north by an extension of Morgan street, east by a street laid down upon said map as Thirteenth street, south by the St. Charles road, and west by lot numbered ten upon said map, said lot being one hundred and eighty-eight feet in front upon said Morgan street by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered twelve upon said map marked A, and bounded as follows: north by an extension of Morgan street, south by the St. Charles road, east by a street laid down upon said map as Fourteenth street, and west by lot numbered fourteen upon said map, said lot being one hundred and eighty-eight feet upon said extension of Morgan — by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered nineteen upon said map marked A, and bounded as follows: north by Franklin avenue, east by a street laid down upon said map as Sixteenth street, south by an extension of Morgan street, and west by
98 lot numbered twenty-one upon said map, said lot being one hundred and eighty-eight feet front upon Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered twenty-six upon said map marked A, and bounded as follows: north by an extension of Morgan street, east by lot twenty-four upon said map, south by St. Charles road, and west by a street laid down upon said map as Eighteenth street, said lot being one hundred and eighty-eight feet in front upon said extension of Morgan street by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, being numbered thirty-nine upon said map marked A, bounded as follows: north by Franklin avenue, east by Twenty-first

street as laid down upon said map, south by an extension of Morgan street, and west by lot numbered forty-one upon said map, said lot being one hundred and eighty-eight feet in front upon said Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered forty upon said map marked A, bounded as follows: north by an extension of Morgan street, east by a street laid down upon said map as Twenty-first street, south by the St. Charles road, and west by lot numbered forty-two upon said map, said lot being one hundred and eighty-eight feet front upon said extension of Morgan street by three hundred and nine feet three inches in depth; also one other lot in said seventy-arpent tract, numbered forty-three upon said map marked A, and bounded as follows: north by Franklin avenue, east by Twenty-second street, south by an extension of Morgan street, and west by lot numbered forty-five upon said map, said lot being one hundred and eighty-eight feet in front upon said Franklin avenue by three hundred and nine feet three inches in depth; also one other lot in said North St. Louis tract, in block twenty-one upon said map marked B, numbered sixty-nine upon said map, and bounded as follows: north by a street laid
99 down upon said map as Green street, east by lot numbered twenty-eight upon said map, south by lot numbered sixty-eight upon said map, and west by Second street as laid down upon said map, said lot being eighty feet in front upon said Second street by one hundred and fifty feet in depth; also one other lot in said North St. Louis tract, in block nineteen, numbered seventy-four upon said map marked B, and bounded as follows: north by lot numbered seventy-five upon said map, east by a street laid down upon said map eighty feet wide, south by lot numbered seventy-three upon said map, and west by a street laid down upon said map as Second street, said lot being eighty feet eight inches in front upon said street eighty feet wide and running back to said Second street; also one *another* lot in said North St. Louis tract, in block thirty-seven, numbered seventy-nine upon said map marked B, and bounded as follows: west by lot numbered one hundred and thirty-eight, north by street laid down upon said map as Spring street, east by a street laid down upon said map as Second street, and south by lot numbered eighty upon said map, said lot being eighty feet in front upon said Second street by one hundred and fifty feet in depth, & also one other lot in said North St. Louis tract, in block thirty-two, numbered ninety-six upon said map B, and bounded as follows: north by lot numbered ninety-five upon said map, east by a street laid down upon said map as Second street, south by a street laid down upon said map as Jefferson street, and west by lot numbered one hundred and twenty-one, said lot being eighty feet front upon said Second street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block forty-five, numbered one hundred and forty-five upon said map marked B, and bounded as follows: north by a street laid down upon said map as Warren street, east by a street laid down upon said map as Third street, south by lot numbered one hundred and forty-

two, and west by lot numbered one hundred and ninety upon said map, said lot being eighty feet in front upon said Third street by
100 one hundred and fifty feet in depth; also one other lot in said North St. Louis tract, in block forty-five, numbered one hundred and forty-seven upon said map marked B, bounded as follows: north by lot numbered one hundred and forty-six upon said map, east by a street laid down upon said map as Third street, south by a street laid — upon said map as Green street, and west by lot numbered one hundred and eighty-eight upon said map, said lot being eighty feet in front upon said Third street by one hundred and fifty feet in depth; also one other lot in said North St. Louis tract, in block sixty-eight, numbered two hundred and fifty-seven upon said map marked B, and bounded as follows: north by a street laid down upon said map as Montgomery street, east by a street laid down upon said map as Fifth street, south by lot numbered two hundred and fifty-eight upon said map, and west by a street laid down upon said map as Sixth street, said lot being eighty feet in front upon said Fifth street by one hundred and fifty feet in depth; also one other lot in said North — tract, numbered two hundred and eighty-seven upon said map marked B, and bounded as follows: north by a street laid down upon said map as Montgomery street, east by a street laid down upon said *street east by a street laid down upon said* map as Sixth street, south by a street surrounding grounds appropriated for a church, as appears from said map, and west by lot numbered two hundred and eighty-eight, said lot being one hundred and fifty feet front upon said Montgomery street and running back to said street surrounding grounds appropriated for a church; also one other lot in said North St. Louis tract, numbered two hundred and eighty-eight upon said map marked B, and bounded as follows: north by a street laid down upon said map as Montgomery street, east by lot numbered two hundred and eighty-seven upon said map, south by a street surrounding grounds appropriated for a church, as appears upon said map, and west by a street laid down upon said map as Seventh street, said lot being one hundred and fifty feet in front upon said Montgomery street and
101 running back to a street surrounding said grounds appropriated for a church; also one other lot in said North St. Louis, in block seventeen, numbered three hundred and ten upon said map marked B, and bounded as follows: north by lot numbered three hundred and eleven upon said map, east by lot numbered three hundred and nine upon said map, south by a street laid down upon said map as Spring street, and west by a street laid down upon said map as Third street, said lot being eighty feet front upon said Third street by one hundred and fifty feet in depth; also one other lot in said North St. Louis, in block seventeen, numbered three hundred and eleven upon said map marked B, and bounded as follows: north by lot numbered three hundred and twelve upon said map, east by lot numbered three hundred and eight upon said map, south by lot three hundred and ten upon said map, and west by a street laid down upon said map as Third street, said lot being eighty feet in front upon said Third street by one hundred and fifty feet in depth; also one other lot of ground in said North St. Louis tract, in block

sixty-three, numbered three hundred and sixty-one upon said map marked B, and bounded as follows: north by lot numbered three hundred and sixty upon said map, east by a street laid down upon said map as Fourth street, south by a street laid down upon said map as Spring street, and west by lot numbered three hundred and sixty-two upon said map, said lot being eighty feet in front upon said Fourth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis tract, in block sixty-three, and numbered three hundred and sixty-two upon said map marked B, bounded as follows: north by lot three hundred and sixty-three upon said map, east by lot numbered three hundred and sixty-one upon said map, south by a street laid down upon said map as Spring street, and west by a street laid down upon said map as Fifth street, said lot being eighty feet in front upon said Fifth street by one hundred and fifty feet in depth; also one other lot in said North St. Louis tract, in block sixty-three, and numbered three
102 hundred and sixty-four upon said map marked B, and bounded as follows: north by the northern line of said tract and a street laid down upon said map as Wright street, south by lot numbered three hundred and sixty three upon said map, east by lot numbered three hundred and fifty-nine upon said map, and west by a street laid down upon said map as Fifth street and the line of said tract, said lot being thirty-eight feet four inches in front upon said Fifth street and running back one hundred and fifty feet in an irregular manner to a width of eighty feet upon said lot numbered three hundred and fifty-nine upon said map; also a lot of ground lying in St. Louis, fronting northwardly upon Franklin avenue twenty-five feet, including the easternmost tenement of the long brick row at the intersection of Fifth street and Franklin avenue, said lot running back southwardly about one hundred and eight feet, bounded west by the fourth tenement in said row, east by lots of N. P. Taylor and James Dean, and north by said Franklin avenue; to have and to hold the same, with all the rights, privileges, and appurtenances thereto belonging, unto her, the said Virginia M. Smith, and to her heirs and assigns forever. This allotment is less by nine dollars ninety-nine cents than her just portion, to be adjusted on distribution of the proceeds of sales of land; and the said commissioners further report the said tract of fifty arpents lying in St. Louis county, being a part of a larger tract granted by concession to Antoine Vincent Bouis, is so situated that it cannot be divided among the said heirs of Christy without prejudice to the owners thereof nor can they make partition without prejudice to the owners thereof of all that portion of the North St. Louis tract which is designated on the said map accompanying his report marked B as lying between the most northern fifty-foot street and Stoney creek, it being the land embraced in outlot number nine and now divided into several parcels by streets as laid out on said map.

103 They therefore recommend the sale of the same and distribution of the proceeds.

JOS. C. BROWN.
JESSE G. LINDELL.
WM. GLASGOW.
D. DELANEY.

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this twenty-ninth day of October, eighteen hundred and forty-one, before me, the undersigned, clerk of the circuit court within and for the county aforesaid, came Joseph C. Brown, Jesse G. Lindell, and William Glasgow, who are all known to me to be the real persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and severally acknowledged the same to be their act and deed for the purposes therein mentioned.

In testimony whereof I have hereunto set my hand and [SEAL.] affixed the seal of said court, at office, in the city of St. Louis, the day and year last aforesaid.

JOHN RULAND, *Clerk*,
By N. S. DOUGHTY, *Dep'ty Clk.*

Map A referred to in the foregoing report.

(Here follow maps marked pp. 103 & 104.)

105 And the court doth order and decree that the petition made therein be firm, valid, and effectual forever, and that the said lands and lots of ground mentioned in the several portion- and allotments in said report pass to and vest in fee-simple in the persons respectively to whom they are in said report allotted, according to the tenor of said report.

And the said commissioners having in their report set forth that the tract of land in bill mentioned, containing fifty arpents, lying in St. Louis county, being part of a larger tract granted by concession to Antoine Vincent Bouis, conveyed to William Christy by deeds of Marie V. Bouis and Andre V. Bouis and others, dated, one of them, the nineteenth of April, the other dated the twenty-second of April, in the year eighteen hundred and sixteen, bounded as follows: beginning at a stake on the River Gingrass, a corner of said tract, thence up the said River Gingrass, with its meanders, to a certain point, and thence eastwardly, in a parallel line with the eastward line of Hyacinth St. Cyr's tract, to the southward line of the tract of said grantors, and thence south forty-eight degrees west, with said line, to the beginning, so as to include the quantity of fifty arpents, is so situated that it cannot be divided among the heirs of said William Christy without prejudice to the owners thereof, and, further, that they could not make partition, without prejudice to the owners thereof, of all that portion of the North St. Louis tract which is designated on the said map accompanying said report, marked B, as lying between the most northern fifty-foot street and Stoney creek, it being the land embraced in outlot number nine and divided into several parcels by streets as laid out on said map, and said commissioners having recommended that said tract of fifty arpents and said portion of the North St. Louis tract lying between the most north-

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ern fifty-foot street, according to said map B, and Stoney creek, which is subdivided by streets laid out by the said
106 commissioners into three irregular pieces *to* be sold & the proceeds thereof be distributed among the parties entitled thereto, the court, being satisfied with the correctness of the report of said commissioners in this respect, doth order and decree that the sheriff of St. Louis county proceed to make sale of said lands in this order above mentioned and described, giving notice of such sale, making the same in all respects in the same manner as he is required by law to do in making sale of real estate on executions, which sale shall be made one-fourth cash down and the balance in three equal portions, payable at six, twelve, and eighteen months, with notes and deeds of trust to secure the payment of the portion of the purchase-money for which a credit shall be given.

And the sheriff is ordered to make report to this court of his proceedings hereunder.

It is ordered that all the costs accrued in this case or to accrue in consequence of the exceptions to the report of the commissioners be paid by the parties who made the exceptions.

Mr. ALLEN: I desire to make the same objection to the decree and also to this plat.

The court was here shown the plat.

Mr. DRABELLE: What is this plat?

Mr. JOHNSON: It is referred to in the commissioners report. This plat is described all the way through the partition proceedings, even in the deed after the plat was made, and after that plat was made it has been referred to as lot # 9.

Mr. ALLEN: To that we enter the same objection; and, further, that plat is not filed and is not authenticated in any manner.

Mr. JOHNSON: It is part of the papers in the case.

Mr. POLLARD: What plat is that? What do you call that?

Mr. JOHNSON: It is marked in the proceedings as plat # 2.

COURT: Objection overruled.

To which ruling defendants duly excepted.

107 Mr. JOHNSON: I next offer in evidence, your honor, the report of the sale by the sheriff and plat marked C, called for in it, showing this lot, and the confirmation of that report, which is to be found in the same record, # 2, page 259, confirming the sale of these lots # 33 and 34 to Judge Robert Wash and lot # 35 to the trustee of the plaintiff in this case, Martha J. Sweringen.

COURT: How is that?

Mr. JOHNSON: The report of the sale; plat and the confirmation. I offer the report of sale by the sheriff and plat C and confirmation of that report, showing he had sold lots # 33 and 34 to Robert Wash and lot 35 to Martha J. Sweringen's trustee.

COURT: Lot # 35 to Martha J. Sweringen's trustee?

A Mr. JOHNSON: Yes.

Mr. DRABELLE: Was not lot 33 to James Sweringen and lots 34 and 35 to Robert Wash?

Mr. JOHNSON: Possibly I have made a mistake.

To which evidence defendants made the same objections as before. Objection overruled. Defendants duly excepted to the ruling of the court.

Said report, plat C, and order confirming sale were read and are as follows:

In the St. Louis Circuit Court, April Term, 1843.

HOWARD F. CHRISTY ET AL.
vs.
JAMES T. SWERINGEN ET AL., Heirs of William Christy, Dec'd. } In Partition.

William Willburn, sheriff of the county of Saint Louis, State of Missouri, comes here into court and makes report of all his acts and proceedings in the above cause under the order of this court ordering me, the said sheriff, to sell certain real estate described in said order.

108 In pursuance of said order (a copy whereof is hereto annexed, marked A, and made part of this report) I, the said sheriff, did, on the ninth day of May, in the year of our Lord one thousand eight hundred and forty-three, cause to be published in the St. Louis New Era (a newspaper published in said county of St. Louis) an advertisement of the sale of said real estate according to the provisions of the statute in such case made and provided, a copy of which said advertisement marked B is hereto annexed and made part of this report. Agreeably to said advertisement I, the said sheriff, did, on the 30th day of May, in the year of our Lord one thousand eight hundred and forty-three, at the court-house door in the city of St. Louis, between the hours of nine and five o'clock of that day, proceed to sell the said real estate at public auction to the highest bidder on the terms in said order mentioned, at which time and place, Henry Ginlen being the highest and best bidder for the tract of land described in said order, at the price and sum of six dollars and fifty cents per arpent, amounting to the sum of three hundred and twenty-five dollars, the said tract was therefore stricken off and sold to the said Henry Guinler for that sum.

And having previous to the said day of sale caused the remaining portion of the real estate described in said order to be subdivided and laid out into lots of convenient sizes, numbered from one to thirty-seven, according to the plat thereof hereto annexed, C, and made part of this report, I did, at said time and place, cause the said lots so laid out by me, as aforesaid, to be sold at public vendue to the highest bidder on the terms in said order mentioned, each lot being sold separate, at which time and place the persons whose names are set opposite to the number of each lot in the schedule hereto annexed, marked D, and made part of this report, being the highest and last bidders for each of said lots at the prices and sums extended in said schedule opposite to each name, the said

109 lots were therefor- each stricken off and sold to said persons for said sums.

And the said Henry Guinlen and all of said persons mentioned in said schedule have complied with the terms of said sale by paying into my hands in cash one-fourth of the purchase-money.

All of which is respectfully submitted to this honorable court.

WILLIAM MILBURN,
Sheriff of the County of St. Louis, in the State of Missouri,
H.

St. Louis, 3 July, 1843.

SCHEDULE.

No. of lot.	No. of feet.	Name of purchasers.	Price per foot.	Total amount.
No. 1	Whole lot.	Nathaniel P. Taylor	.....	$50 00
" 2	70	William Chambers	$2 62½	183 75
" 3	30	Christian Balmer	3 75	112 50
" 4	30	Ernst Balmer	2 25	67 50
" 5	30	James Stockdale	2 25	67 50
" 6	30	John Lowe	2 62½	78 75
" 7	30	John Lowe	5 37½	161 25
" 8	30	John Lowe	4 00	120 00
" 9	30	John Lowe	3 87½	116 25
" 10	30	Frederick Probst	3 00	90 00
" 11	30	James T. Sweringen for Martha J. Sweringen	3 00	90 00
" 12	30	Jacob Bittner	1 75	52 50
" 13	30	Joseph Scholl	2 12½	63 75
" 14	30	John Th. Walter	1 75	52 50
" 15	39	John Th. Walter	1 62½	48 75
" 16	30	William Chambers	1 62½	48 75
" 17	30	Robert Wash	1 75	52 50
" 18	71	James T. Sweringen for Martha J. Sweringen	4 00	284 00
" 19	Whole lot.	James T. Sweringen for Martha J. Sweringen	.....	108 00
" 20	30	Reuben B. Austin	5 75	172 50
" 21	30	Reuben B. Austin	3 12½	93 75
" 22	30	Reuben B. Austin	3 12½	93 75
" 23	30	Reuben B. Austin	2 75	82 50
" 24	30	James T. Sweringen for Martha J. Sweringen	2 25	67 50
" 25	30	Same, same	2 12½	63 75
" 26	30	Same, same	2 12½	63 75
" 27	30	Same, same	2 50	75 00
" 28	30	William Chambers	3 25	97 50
" 29	64	William Chambers	3 87½	248 00
" 30	.....	William Chambers, whole lot	.....	175 00
" 31	30	William Chambers	3 75	112 50
" 32	30	William Chambers	3 75	112 50
" 33	30	James T. Sweringen for Martha J. Sweringen	3 50	105 00
" 34	30	Robert Wash	3 75	112 50
" 35	30	Robert Wash	3 75	112 50
" 36	30	Harriet M. Dean	4 12½	123 75
" 37	30	Harriet M. Dean	5 50	165 00
				$3,925 00

110 STATE OF MISSOURI, } *sct:*
County of St. Louis, }

In the St. Louis Circuit Court, November Term, 1842, Friday, January 6th, 1843.

Extract from the Decree in the Case of Howard F. Christy et al. vs. James T. Sweringen et al.

And the said commissioners having in their report set forth that the tract of land in bill mentioned, containing fifty arpents, lying in St. Louis county, being part of a larger tract granted by concession to Antoine Vincent Bouis, conveyed to William Christy by deeds of Maria V. Bouis and others, dated, one of them, the nineteenth of April, the other dated the twenty-second of April, in the year eighteen hundred and sixteen, bounded as follows: Beginning at a stake in the River Gingrass, a corner of said tract, thence up the said River Gingrass, with its meanders, to a certain point, and thence eastwardly, in a parallel line with the eastward line of Hyacinth St. Cyr's tract, to the southward line of the tract of said grantors, and thence south forty-eight degrees west with said line to the beginning, so as to include the quantity of fifty arpents, is so situated that it cannot be divided among the heirs of William Christy without prejudice to the owner thereof; and, further, that they could not make partition without prejudice to the owners thereof of all that portion of the North St. Louis tract which is designated on the said map accompanying said report marked B as lying between the most northern fifty-foot street and Stoney creek, it being the land embraced in outlot number nine and divided into several parcels by streets as laid out on said map; and said commissioners having recommended that said tract of fifty arpents and said portion of the North St. Louis tract lying between the most northern fifty-foot street, according to said map B, and Stoney creek, which is
111 subdivided by streets laid out by the said commissioners into three irregular pieces, be sold & the proceeds thereof be distributed among the parties entitled thereto, the court, being satisfied with the correctness of the report of said commissioners in this respect, doth order & decree that the sheriff of St. Louis county proceed to make sale of said lands in the order above mentioned and described, giving notice of such sale & making the same in all respects in the same manner as he is required by law to do in making sale of real estate on executions, which sale shall be made one-fourth cash down and the balance in three equal portions, payable at six, twelve, and eighteen months, with notes and deeds of trust to secure the payment of the portion of the purchase-money for which a credit shall be given; and the sheriff is ordered to make report to this court of his proceedings hereunder.

True extract.
Test: JNO. RULAND, *Clerk.*

(Here follows map marked p. 111.)

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112 MONDAY, *July* 17, 1843.

HOWARD F. CHRISTY, &c.,
vs.
JAMES T. SWERINGEN, &c.

The sheriff having heretofore filed his report herein stating the land sold, the prices paid for the *d*ame, together with the names of the purchasers, it is ordered by the court that said report and the matters and things therein contained be and the same is confirmed as firm and effectual forever. It is further ordered that said sheriff execute deeds to the purchasers herein.

It is ordered that Joseph Spaulding be and he is allowed the sum of two hundred and fifty dollars fees for conducting the said proceedings in partition as counsel, which sum the sheriff is ordered to pay out of the proceeds of sales herein.

It is ordered that the clerk of this court make out a copy of the decree of partition herein, under seal, and cause the same to be recorded in the recorder's office of St. Louis county, the expenses of which are also to be paid by the sheriff out of proceeds of sales in this case.

It is further ordered that the sheriff pay out of the proceeds of sales in his hands and to come into his hands, first, the costs and expenses of this case, and then to the following persons the several sums, namely: Matilda N. Taylor, one hundred three dollars eighty-eight cents; to Howard F. Christy, fifty-seven dollars sixty-five cents: to Harriet M. Dean, ninety-eight dollars eight cents; to Martha T. Sweringen, wife of James T. Sweringen, seventy-six dollars ninety-six cents; to Mary Ann Coxe, wife of Henry J. Coxe, ninety-two dollars fifty cents; to Martha E. Mitchell, wife of David D. Mitchell, eighty-two dollars fifty-one cents; to Frances S. M. Wash, one hundred forty-six dollars fifty cents, and to Virginia M. Smith, wife of Edwin B. Smith, ninety-three dollars fifty cents; which several payments will rectify the several excesses and deficiencies in the allotments made by the commissioners in this
113 cause, so that all the parties will be equally advanced. It is further ordered that the balance of proceeds of said sales, after the payments aforesaid, shall be paid over to the parties in interest according to their respective rights as heretofore ascertained by the court.

Q. I will now offer the copy of the sheriff's deed to Robert Wash. That will straighten that out.

Mr. ALLEN: To the last we also enter the same objection.

The objection was overruled; to which ruling the defendant duly excepted.

Mr. JOHNSON: This is a very long deed and makes a great many recitals. This refers to reports and plats and designates specifically the property—the deed to Robert Wash for lots 34 and 35. I was mistaken. Correct that.

Said deed was read and is as follows:

To all to whom these presents shall come, I, William Milburn, sheriff of the county of St. Louis, State of Missouri, send greeting:

Whereas on the sixth day of January in the year of our Lord one thousand eight hundred and forty-three an order was made by the St. Louis circuit court sitting as a court of chancery for the sale of certain real estate mentioned in the report of the commissioners appointed by said court to make partition of the estate of Wm. Christy, deceased, as being so situated that it could not be divided among the heirs of said William Christy without prejudice to the owners thereof which said order is in words and figures following, to wit:

STATE OF MISSOURI, } *sct:*
County of St. Louis, }

In the St. Louis Circuit Court, November Term, 1842, Friday, January 6th, 1843.

Extract from the Decree in the Case of Howard F. Christy et al. vs. James T. Sweringen et al.

And the said commissioners having in their report set forth that the tract of land in bill mentioned, containing fifty arpents, lying in St. Louis county, being part of a larger tract granted by 114 concession to Antoine Vincent Bouis conveyed to William Christy by deed of Marie V. Bouis and Andre V. Bouis and others dated one of them the nineteenth of April the other dated the twenty-second of April in the year eighteen hundred and sixteen bounded as follows beginning at a stake on the River Gingrass a corner of said tract thence up the said Ricer Gingrass with its meanders to a certain point and thence eastwardly in a parallel line with the eastward line of Hyacinth St. Cyr's tract to the southward line of the tract of said grantors and thence south forty-eight degrees west with said line to the beginning so as to include the quantity of fifty arpents is so situated that it cannot be divided among the heirs of said William Christy without prejudice to the owners thereof and further that they could not make partition without prejudice to the owners thereof of all that portion of the North St. Louis tract which is designated on the said map accompanying said report marked B, as lying between the most northern fifty-foot street and Stoney creek it being the land embraced in outlot number nine and divided into several parcels by streets as laid out on said map and said commissioners having recommended that said tract of fifty arpens and said portion of the North St. Louis tract lying between the most northern fifty-foot street according to said map B, and Stoney creek, which is subdivided by streets laid out by the said commissioners into three irregular pieces be sold the proceeds thereof be distributed among the parties entitled thereto the court being satisfied with the correctness of the report of said commissioners in this respect doth order and decree that the sheriff of St. Louis county proceed to make sale of said lands in this order above mentioned and described giv-

ing notice of such sale and making the same in all respects in the same manner as he is required by law to do in making sale of real estate on executions which sale shall be made one-fourth cash down and the balance in three equal portions payable at six, twelve and eighteen months with notes and deeds of trust to secure the
115 payment of the purchase-money for which a credit shall be given and the sheriff is ordered to make a report to this court of his proceedings hereunder.

True extract.
Test: JOHN RULAND, *Clerk.*

And whereas, in pursuance of which said order I the said sheriff did proceed to give notice for at least twenty days previous to the day of sale hereinafter mentioned of the time, terms and place of sale and of the real estate to be sold and where situated as the law directs by advertisements in the St. Louis New Era a newspaper printed in said county of St. Louis a copy of which said advertisement is hereby annexed and makes part of this deed. And whereas, I the said sheriff did previous to the said day of sale, mentioned in said advertisement, cause that portion of the property described in said advertisement and order as all that portion of the North St. Louis tract, which is designated on the map accompanying the report of said commissioners marked B as lying between the most northern fifty-foot street in North St. Louis and Stoney creek to be subdivided and laid out into smaller lots as represented on the map marked C, and filed with my report made to the St. Louis circuit court on the 3rd day of July eighteen hundred and forty-three a copy of which said map is also filed in the office of the recorder of deeds for said county of Saint Louis by order of the said St. Louis circuit court by virtue of which said order of sale and of said advertisement I the said sheriff did on the thirtieth day of May in the year of our Lord one thousand eight hundred and forty-three between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day agreeably to said advertisement at the court-house door in the city of St. Louis during the April term of the circuit court of St. Louis county for the year one thousand and eight hundred and forty-three expose to sale at public auction to the highest bidder on the terms in said order mentioned all
116 the right, title, interest, claim, estate and property of Martha Eliza Berry, Frances S. M. Wash, Harriet B. M. Dean, Nathaniel P. Taylor & Matilda M. Taylor his wife Martha T. Christy, Edmund B. Smith, and Virginia M. Smith his wife, Henry S. Coxe and Mary Ann his wife Howard F. Christy, Edmund T. Christy, James T. Sweringen and Matilda J. Sweringen his wife and Mary Ann Wright heirs of William Christy deceased of in and to those portions of the said North St. Louis tract which are designated on the said map filed with my said report as lots numbers seventeen, thirty-four and thirty-five said lots are bounded and described on said map as follows, to wit: Lot number seventeen, containing thirty feet front on Second or Main street and running back west to Stoney creek bound- east by said Second or Main street north by lot

No. 18, south by lot No. 16 and west by Stoney creek. Said lots Nos. 34 & 35 containing each thirty feet front on the River Mississippi and running back westwardly one hundred and thirty eight feet more or less, bounded east by the River Mississippi, south by lot No. 36 north by lot No. 33 and west by the east end of lots No. 22 and 23 according to said map and Robert Wash being then and there the highest and last bidder for said lots of ground at the prices and sums following, to wit: for lot number seventeen the price and sum of one dollar and seventy-five cents per foot amounting to the sum of fifty-two dollars and fifty cents and for lots numbers thirty-four and thirty-five the price and sum of three dollars and seventy-five cents per foot each lot and amounting together to the sum of two hundred and twenty-five dollars and all three of said lots amounting to the sum of two hundred and seventy-seven dollars and fifty cents the same were stricken off and sold to the said Robert Wash for that sum. And whereas I the said sheriff did afterwards to wit: on the third day of July in the year of our Lord one thousand eight hundred and forty-three made report of said sale and of all my acts and proceedings under
117 said order to the said St. Louis circuit court which said report was afterwards, to wit, on the seventeenth day of July, A. D. eighteen hundred and forty-three approved by said court, and confirmed as firm and effectual forever and an order thereupon made by said court ordering and directing me the said sheriff to make and execute to the said Robert Wash a deed for said lot of ground. Now, therefore, know ye that I, William Milburn, sheriff as aforesaid in consideration of the premises and of the said sum of two hundred and seventy-seven dollars and fifty cents to me in hand paid in the manner provided in said order by the said Robert Wash the receipt of which I do hereby acknowledge and by virtue of the authority in me vested by law, I do hereby assign, transfer and convey to him the said Robert Wash all the right, title, claim, interest, estate and property of the said heirs of William Christy, deceased and above named of in and to the above-described lots of ground that I might sell and convey as sheriff as aforesaid by virtue of the aforesaid order of sale and of said advertisement.

To have and to hold the same to him the said Robert Wash and to his heirs and assigns forever with all rights, privileges and appurtenances thereunto belonging.

In witness, whereof, I William Milburn, sheriff of the county of St. Louis as aforesaid have hereunto set my hand and seal this thirtieth day of December, A. D. eighteen hundred and forty-three.

WILLIAM MILBURNE, [SEAL.]

Sheriff of St. Louis County, in the State of Missouri.

Sheriff's Sale.

In virtue and by authority of an order made by the St. Louis circuit court at the November term, 1842, of said court on the 6th day of January, 1843, for the sale of certain real estate mentioned and

described in the report of the commissioners appointed by said court to make partition of the real estate of William Christy, deceased, in the case wherein Martha Eliza Berry and Francis S. M. Wash, by Robert Wash, guardian, and Harriet M. B. Dean, Nathaniel P. Taylor,
M. N. Taylor, Martha T. Christy, E. B. Smith, Virginia M.
118 Smith, Henry S. Coxe, Mary Anne Coxe, and Howard F. Christy were plaintiffs and Edward T. Christy, James T. Sweringen, Martha T., his wife, and Mary Ann Wright were defendants, I will, on Tuesday, the 30th day of May inst., between the hours of nine and five o'clock of that day, at the court-house door, in the city of St. Louis, sell all the right, title, interest, claim, estate, and property of the parties above named of, in, and to the real estate mentioned in said order to the highest bidder, on the terms in said order mentioned, to wit, one-fourth cash down and the balance in three equal portions, payable at six, twelve, and eighteen months, with notes and deeds of trust to secure the payment of the portion of the purchase-money for which a credit shall be given; which said real estate is described in said order as follows, to wit: A tract of land containing fifty arpents, lying in St. Louis county, being part of a larger tract granted by concession to Antoine Vincent Bouis, conveyed to William Christy by deeds of Marie V. Bouis and Andre V. Bouis and others, dated, one of them, the nineteenth of April, the other dated the twenty-second of April, in the year eighteen hundred and sixteen, bounded as follows: Beginning at a stake on the River Gingrass, a corner of said tract, thence up the said River Gingrass, with its meanders, to a certain point, and thence eastwardly, in a parallel line with the eastern line of Hyacinth St. Cyr's tract, to the southward line of the tract of the said grantors, and thence south forty-eight degrees west with said line to the beginning, so as to include the quantity of fifty arpents; also all that portion of the North St. Louis tract which is designated on the map accompanying the report of said commissioners, marked B, as lying between the west northern fifty-foot street in North St. Louis and Stoney creek, it being the land embraced in outlot number nine and divided into several parcels by streets as laid out on said map, lying in the county of St. Louis and State of Missouri.

WILLIAM MILBURN, *Sheriff.*

Saint Louis, May 9, 1843.

119 STATE OF MISSOURI, } *ss:*
County of St. Louis, }

In the St. Louis Circuit Court, Thursday, June 19th, 1845, April Term, 1845.

Be it remembered that on this nineteenth day of June, eighteen hundred and forty-five, comes into open court William Milburn, Esquire, sheriff of the county of St. Louis, and acknowledges the execution of a deed by him, as sheriff as aforesaid, in favor of Robert Wash; which said acknowledgment is entered on the records of the court of that day.

In testimony whereof I, John Ruland, clerk of said court, hereto set my hand and affix the seal of said court, at office, in the city of St. Louis, the day and year aforesaid.

[SEAL.]

JOHN RULAND, *Clerk.*

Filed and recorded Dec'r 2, 1846.

S. D. BARLOW, *Recorder.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by William Christy's heirs, by sheriff, to Robert Wash, together with the acknowledgment and date of filing and recording thereof, as the same remains of record in my office, in Book E 4, page 205.

In witness whereof I have hereunto set my hand and official seal *at* this 12th day of March, A. D. 1896.

M. D. LEWIS, *Recorder.*

Mr. JOHNSON: All of these deeds call for the Mississippi river on the east.

Mr. JOHNSON: I now offer in evidence the deed from Robert
120 Wash to the trustees of Martha J. Sweringen, dated the 3rd of December, 1850, lot- 17, 34, and 35, marked and designated on plat made by Joseph C. Brown in proceedings of partition among the heirs of William Christy, deceased, of outlot #9, in the county of St. Louis, State of Missouri, being between Rocky branch and the next street, which street runs east and west.

Mr. ALLEN: To that we enter the same objection.

Objection overruled; to which ruling the defendants duly excepted.

Said deed was read and is as follows:

This deed made and entered into the third day of December eighteen hundred and fifty by and between Robert Wash and Eliza L. his wife parties of the first part and John O. F. Farrar and Charles T. Sweringen trustees parties of the second part and Martha Jane Sweringen wife of James T. Sweringen of Saint Louis, Missouri, party of the third part, witnesseth: That said parties of the first part for and in consideration of twelve hundred dollars to them paid by said party of the third part, receipt of which is hereby acknowledged do by these presents, grant, bargain and sell, convey and confirm unto said parties of the second part as trustees as hereinafter mentioned the three lots of land described as follows: Lots numbered seventeen, thirty-four and thirty-five, as marked and designated on a plat made by Joseph C. Brown in the proceedings in partition amongst the heirs of William Christy deceased of the part of outlot No. 9 in the county of Saint Louis and State of Missouri, lying between Rocky branch, and the street next to it south, which street runs east and westwardly which plat is marked C, and will be found

amongst said proceedings in partition in the records of the circuit court for the county of St. Louis. Lot seventeen containing thirty feet front on Main street and running back west to Stoney creek or Rocky branch with that width, lots thirty-four and thirty-five containing each thirty feet in front or width the two together being
121 described as follows: Beginning at a point which is one hundred and forty feet east of said Main street and sixty feet north of said other street, which is the nearest street to said Stoney creek or Rocky branch, south thereof which point of beginning is the southwest corner of lot No. 35 running thence northwardly and parallel to Main street sixty feet, and extending eastwardly with that width of sixty feet and parallel to said street; next south of said Stoney creek or Rocky branch to the Mississippi river. Bounded north by lot No. thirty-three, west by lots No. twenty-two and twenty-three, south by lot No. thirty-six, east by the Mississippi river and are the same three lots acquired by said Robert Wash of the heirs of William Christy by deed executed by the sheriff and recorded in the recorder's office for Saint Louis county, in Book E No. four, page 205; to have and to hold said lots of land with the ways, rights, privileges, appurtenances and advantages thereunto belonging unto said parties of the second part and to the survivor of them and to the heirs and assigns of such survivor forever. In trust however to have, hold, use and enjoy the same for the sole and independent use and profits of said Martha Jane Sweringen free and clear of all interest and control of her husband said lots to be conveyed and used as she in writing may direct. The rents thereof to be collected by the trustees and paid over to her after all costs of the trust taxes &c. It being intended that said Martha Jane Sweringen shall have the full and exclusive ownership and control over said property by means of her said trustees the same as if she were a "*feme sole.*" The profits and rents of said lots, and in case of sale of them the proceeds thereof to be invested by said trustees for said Martha Jane, or otherwise used as she alone may direct.

In testimony whereof said parties of the first part have hereunto set their hands and seals the day and year first above written.

R. WASH. [SEAL.]
E. L. WASH. [SEAL.]

122 STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this twenty-second day of January, eighteen hundred and fifty-one, before the undersigned, recorder in and for said county, came Robert Wash and Eliza L., his wife, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument in writing as parties thereto, and severally acknowledged the same to be their act and deed for the purposes therein mentioned. She, the said Eliza L., being first made acquainted with the contents of said conveyance, acknowledged, on an examination apart from her said husband, that she executed the same and relinquishes her dower in the real estate

therein mentioned freely and without compulsion or undue influence of her said husband.

[SEAL.] Witness my hand and official seal the 22nd day of January, 1851.

STEPHEN D. BARLOW, *Recorder.*

STATE OF MISSOURI, } ss:
County of St. Louis, }

I, the undersigned, recorder within and for the county aforesaid, do hereby certify that the foregoing instruments of writing was filed for record in my office Jan'y 22nd, 1851, and is truly recorded in Book U No. 5, pages 100.

[SEAL.] Witness my hand and official seal the date last aforesaid.

S. D. BARLOW, *Recorder.*

Mr. JOHNSON: I now offer in evidence a deed of the Christy heirs in partition by sheriff to Martha J. Sweringen's trustees.

Which was read in evidence and is as follows:

To all to whom these presents shall come, I, William Milburn, sheriff of the county of Saint Louis, State of Missouri, send greeting:

Whereas on the sixth day of January in the year of our
123 Lord one thousand eight hundred and forty-three an order was made by the St. Louis circuit court sitting as a court of chancery for the sale of certain real estate mentioned in the report of the commissioners appointed by said court, to make partition of the estate of William Christy, deceased, as being so situated that it could not be divided among the heirs of said William Christy without prejudice to the owners thereof, which said order is in the words and figures following, to wit:

STATE OF MISSOURI, } sct:
County of St. Louis, }

In the St. Louis Circuit Court, November Term, 1842, Friday, January 6th, 1843.

Extract from the Decree in the Case of Howard F. Christy et al. vs. James T. Sweringen et al.

And the said commissioners having in their report set forth that the tract of land in bill mentioned containing fifty arpents lying in St. Louis county, being part of a larger tract granted by concession to Antoine Vincent Bouis conveyed to William Christy by deeds of Maria V. Bouis and Andre V. Bouis and others, dated one of them the nineteenth of April, the other dated the twenty-second of April in the year eighteen hundred and sixteen bounded as follows: Beginning at a stake on the River Gingrass, a corner of said tract, thence up the said River Gingrass with its meanders to a certain point and thence eastwardly in a parallel line with the eastward

line of Hyacinth St. Cyr's tract to the southward line of the tract of said grantor's and thence south forty-eight degrees with said line to the beginning so as to include the quantity of fifty arpents is so situated that it cannot be divided amongst the heirs of said William Christy without prejudice to the owners thereof and further that they could not make partition without prejudice to the owners thereof of all that portion of the North St. Louis tract which is designated on said map accompanying said report marked B as lying between the most northern fifty-foot street, and Stoney creek, it being the land embraced in outlot number nine and divided into several parcels by streets as laid out on said map, and
124 said commissioners having recommended that said tract of fifty arpents, and said portion of the North St. Louis tract lying between the most north fifty-foot street according to said map B and Stoney creek which is subdivided by streets laid out by the said commissioners into three irregular pieces be sold and the proceeds thereof be distributed among the parties entitled thereto. The court being satisfied with the correctness of the report of said commissioners in this respect doth order and decree that the sheriff of St. Louis county proceed to make sale of said lands in said order above mentioned and described giving notice of such sale and making the same in all respects in the same manner as he is required by law to do in making sale of real estate on executions, which sale shall be made one-fourth cash down, and the balance in three equal portions, payable at six, twelve, and eighteen months, with notes and deeds of trust to secure the payment of the portion of the purchase-money for which a credit shall be given and the sheriff is ordered to make report to this court of his proceedings hereunder.

True extract.
Test: JNO. RULAND, *Clerk.*

And whereas in pursuance of said order I the said sheriff did proceed to give notice for of least twenty days previous to the day of sale hereinafter mentioned of the time, terms and place of sale, & of the real estate to be sold and where situated as the law directs, by advertisements in the St. Louis New Era, a newspaper printed in said county of St. Louis, a copy of which said advertisement is hereto annexed & makes a part of this deed. And whereas I the said sheriff did previous to the said day of sale mentioned in said advertisement, cause that portion of the property described in said advertisement order, as all that portion of the North St. Louis tract which is designated on the map, accompanying the report of said commissioners marked B, as lying between the most northern fifty-foot street in North St. Louis and Stoney creek, to be subdivided and laid out into smaller lots as represented on the map marked C and filed with my report made to the St. Louis
125 circuit court on the third day of July, eighteen hundred and forty-three. A copy of which said map is also by order of said court filed in the office of the recorder of deeds for said county of St. Louis.

By virtue of which said order of sale and of said advertisement,

I the said sheriff did on the thirtieth day of May in the year of our Lord one thousand eight hundred and forty-three, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day, agreeably to said advertisement at the court-house door in the city of St. Louis during the April term of the circuit court of St. Louis county for the year one thousand eight hundred and forty-three expose to sale at public vendue or auction to the highest bidder, at the terms in said order mentioned, all the right, title, interest, claim, estate and property of Martha Eliza Berry, Frances S. M. Wash, Harriet M. B. Dean, Nathaniel P. Taylor, and Matilda N. Taylor his wife, Martha T. Christy, Edmund B. Smith, and Virginia M. Smith his wife, Henry S. Coxe and Mary Ann Coxe his wife, Howard F. Christy, Edmund T. Christy, James T. Sweringen and Martha J. Sweringen his wife and Mary Ann Wright, heirs of said William Christy deceased, of in and to all those portions of said North St. Louis tract which are designated on said map filed with my said report, as lots numbered eighteen, nineteen, twenty-four, twenty-five, twenty-six, and twenty-seven and thirty-three—said lots described by said map as follows, to wit: Lot number nineteen bounded east by Second or Main street, south by lot number eighteen, west and north by Stony Creek the number of feet not known, lot number eighteen containing seventy-one feet fronting on Second or Main street and running back so as to include the whole bend of Stoney creek, bounded on the north in part by lot numbered nineteen and in part by Stoney creek, on the west by Stoney creek, south in part by lot number seventeen, and in part by Stoney creek, and east by Second or Main street, lots number- twenty four, twenty-five, twenty-six and twenty-seven, containing each thirty feet front on Second or Main
126 street and running east one hundred and forty feet, said lots joining each other, bounded south by lot number twenty-three, west by Second or Main street, north by lot number twenty-eight and east by the west end of lots numbered thirty, thirty-one, thirty-two, and thirty-three and lot number thirty-three containing thirty feet front on the Mississippi river and running back one hundred and thirty-eight feet more or less, bounded east by said River Mississippi, west by the east end of lot number twenty-four, north by lot number thirty-two and south by lot number thirty-four; at which time and place, said Martha J. Sweringen wife of James T. Sweringen of the said county of St. Louis in the State of Missouri—being the highest and last bidder for said lots of ground at the prices and sums following to wit: for lot number eighteen the price and sum of four dollars per foot amounting to two hundred and eighty-four dollars, for lot number nineteen the price and sum of one hundred and eight dollars for the whole lot, for lot number twenty-four the price and sum of two dollars and twenty-five cents per foot amounting to the sum of sixty-seven dollars and fifty cents, for lot number twenty-five, the price and sum of two dollars twelve and a half cents per foot, amounting to the sum of sixty-three dollars and seventy-five cents, for lot number twenty-six, two dollars and twelve and one-half cents per foot, amounting to the sum of sixty-three

dollars and seventy-five cents, for lot number twenty-seven the price and sum of two dollars and fifty cents per foot, amounting to the sum of seventy-five dollars, and for lot number thirty-three the price and sum of three dollars and fifty cents per foot amounting to the sum of one hundred and five dollars. The said lots were therefore, stricken off for and in behalf of the said Martha J. Sweringen, wife of the said James T. Sweringen, for said sums amounting together to the sum of seven hundred and sixty-seven dollars.

And whereas I the said sheriff did afterwards, to wit, on the third day of July, in the year of our Lord one thousand eight hun-
127 dred and forty-three make report of said sale and of all my acts and proceedings under said order, to the said St. Louis circuit court, which said report was afterwards, to wit, on the seventeenth day of July, A. D. 1843, approved and confirmed by the said court as firm and effectual forever. And an order thereupon made by said court ordering and directing me the said sheriff to make and execute unto the said Mrs. Martha J. Sweringen wife of the said James T. Sweringen a good and sufficient deed for said lots of land.

And whereas further the said Martha J. Sweringen has appointed Thomas Morrow and John O'Fallon Farrar both of the said county of St. Louis her true and lawful trustees in the premises, and has required me to execute the deed for all said several lots of land to the said Thomas Morrow and John O'Fallon Farrar, in trust for the sole and exclusive use and benefit of her the said Martha J. Sweringen her heirs and assigns forever free and clear from each and all right, title or claim therein on the part of the said James T. Sweringen her said husband, and with full, exclusive and unrestrained right on part of the said Martha J. Sweringen to use, occupy and enjoy the said several lots and each one of them and to demand and enforce of her said trustees a conveyance of all or any one or more of the said several lots of land or any parcel of either of them, to whomsoever she the said Martha J. Sweringen or her heirs and assigns may direct.

Now know ye, that I, William Milburn, sheriff of the county of St. Louis as aforesaid, in consideration of the premises, and of the said sum of seven hundred and sixty-seven dollars to me in hand paid in the manner provided in the said order by the said Martha J. Sweringen, the receipt whereof I do hereby acknowledge, and in further consideration of the sum of five dollars to me in hand paid by the said Thomas Morrow and John O'Fallon Farrar, the trustees selected by the said Martha J. Sweringen, the receipt whereof
128 I do likewise acknowledge, and in virtue of the authority in me vested by law, I do hereby assign, transfer and convey unto the said Thomas Morrow and John O'Fallon Farrar and to the survivor of the-, and to the heirs and assigns of the survivor of them, in trust for her the said Martha J. Sweringen, her heirs and assigns forever, all the right, title, interest, claim, estate and property of them the said above-named heirs of William Christy deceased of in and to the said lots of land above set forth and described as having been stricken off in favor of her the said Martha J. Sweringen, to have and to hold the same, unto the said Thomas Morrow

and John O'Fallon Farrar, and unto the survivor of them and unto the heirs and assigns of *of* the survivor of them with all rights, privileges, and appurtenances hereunto belonging, in trust for the sole and exclusive use and benefit of her the said Martha J. Sweringen, *his* heirs and assigns forever, free and clear from each and all right, title or claim of in and to the said several lots or any or more of them, on the part of *of* the said James T. Sweringen, her said husband or any person claiming under him, and with full exclusive and unrestrained right on part of said Martha J. Sweringen to use, occupy and enjoy all the said several lots and each one of them, and to demand and enforce of them her said trustees, or the survivor of them, or the heirs and assigns of the survivor of them, one or more conveyances of all or any one or more of the said several lots of land, or any parcel of either of them, to whomsoever she the said Martha J. Sweringen or her heirs and assigns in writing may direct.

In witness whereof, I the said William Milburn sheriff as aforesaid, have hereunto set my hand and seal this third day of July, A. D. eighteen hundred and forty-four.

WILLIAM MILBURN, [SEAL.]
Sheriff of Saint Louis County, in the State of Missouri.

Sheriff's Sale.

129 In virtue and by authority of an order made by the St. Louis circuit court, at the November term, 1842, of said court, on the 6th day of January, 1843, for the sale of certain real estate mentioned and described in the report of the commissioners appointed by said court to make partition of the real estate of William Christy, deceased, in the case wherein Martha Eliza Berry and Frances S. M. Wash, by Robert Wash, guardian, and Harriet M. B. Dean, Nathaniel P. Taylor, M. N. Taylor, Martha T. Christy, E. B. Smith, Virginia M. Smith, Henry S. Coxe, Mary Ann Coxe, and Howard F. Christy were plaintiffs and Edward T. Christy, James T. Sweringen, Martha T., his wife, and Mary Ann Wright were defendants, I will on Tuesday, the 30th day of May inst., between the hours of nine and five o'clock of that day, at the court-house door, in the city of St. Louis, sell all the right, title, interest, claim, estate, and property of the parties above named of, in, and to the real estate mentioned in said order *mentioned*, to wit, one-fourth cash down, and the balance in three equal portions, payable at six, twelve, and eighteen months, with notes and deeds of trust to secure the payment of the portion of the purchase-money for which credit shall be given; which said real estate is described in said order as follows, to wit: A tract of land containing fifty arpents, lying in St. Louis county, being part of a larger tract granted by concession to Antoine Vincent Bouis, conveyed to William Christy by deeds of Marie V. Bouis and Andre V. Bouis and others, dated, one of them, the nineteenth of April, the other dated the twenty-second of April, in the year eighteen hundred and sixteen, bounded as follows: Beginning at a stake on the River Gingrass, a corner of said tract, thence up the said River Gingrass, with the meanders, to a certain

point, and thence eastwardly, in a parallel line with the eastern line of Hyacinth St. Cyr's tract, to the southward line of the tract of the said grantor, and thence south forty-eight degrees west, with said line, to the beginning, so as to include the quantity of fifty
130 arpents. Also all that portion of the North St. Louis tract which is designated on the map accompanying the report of said commissioners, marked B, as lying between the most northern fifty-foot street in North St. Louis and Stoney creek, it being the land embraced in outlot number nine and divided into several parcels by streets as laid out on said map, lying in the county of St. Louis and State of Missouri.

WILLIAM MILBURN, *Sheriff.*

St. Louis, May 9th, 1843.

P. S.—A plat of the above-named real estate can be seen at the sheriff's office, subdivided into lots of convenient size.

STATE OF MISSOURI, } *ss:*
County of St. Louis, }

In the St. Louis Circuit Court, April Term, 1844, Wednesday, 3rd July, 1844.

Be it remembered that on this third day of July, eighteen hundred and forty-four, comes into court here William Milburn, sheriff of the county of St. Louis, and acknowledges the execution of the foregoing deed by him, as sheriff, as aforesaid, to Thomas Morrow and John O'Fallon Farrar, in trust for Mrs. Martha J. Sweringen, wife of James J. Sweringen; which said acknowledgment is entered on the records of the court of that day.

In testimony whereof I, John Ruland, clerk of said court,
[SEAL.] hereto set my hand and affix the seal of said court, at office, in the city of St. Louis, the day and year last aforesaid.

JNO. RULAND, *Clerk.*

STATE OF MISSOURI, } *ss:*
County of St. Louis, }

I, Stephen D. Barlow, clerk of the county court & *ex officio* recorder in and for said county, certify that the foregoing instrument of writing was filed for record in my office on the 3rd day of October, 1844, & is truly recorded in Book M No. 3, page 70, & following. *Given*

131 Given under my hand and seal of office on this 11th day of October, A. D. 1844.

[SEAL.] S. D. BARLOW, *Recorder.*

Mr. ALLEN: To that we enter the same objection.
Objection overruled; to which ruling the defendant duly excepted.

JAMES V. S. BARRETT, being duly sworn on behalf of the plaintiff, testified as follows:

Direct examination by E. P. JOHNSON, Esq.:

Q. What is your full name?
A. James Van Sweringen Barrett.
Q. You are a grandson of the plaintiff in this case?
A. Yes, sir.
Q. You knew the family and relatives?
A. Yes, sir.
Q. Who was Nathaniel P. Taylor?
A. He married a Miss Christy.
Q. Which one?
A. Matilda Christy.
Q. She was your great-aunt?
A. My grand-aunt.
Q. Matilda Christy is mentioned in the will — Nathaniel P. Taylor; she and he were plaintiffs in this suit. Virginia Christy is mentioned in the will. Whom did she marry?
A. She married Edward B. Smith.
Q. And Virginia is the wife of one of the parties to this suit?
A. Yes, sir.
Q. Mary Ann Berry is also mentioned in the will. To whom was she married?
A. I think she was married two or three times.
Q. She was the wife of Judge Wash—Robert Wash?
A. Yes.
Mr. BELL: Was not she married to Berry before Wash?
A. Yes; she was married two or three times. I think her last husband was Robert Wash, if I remember, and she married Henry C. Cox.
Mr. BELL: Subsequently she married Cox?
A. Yes; that is my recollection.
132 Q. And Martha Elizabeth Berry was also married?
A. I will not say to that.
Mr. ALLEN: Can you state?
A. I will not state positively.
Q. Pendleton was her last husband?
A. Yes, sir.
Q. Martha L. Berry is mentioned in this will?
A. Yes, sir.
Q. Charles W. Schonberg—do you know anything about them?
A. Olcanda; she was a Miss Wright.
Q. None of those are mentioned in the children of Christy?
A. No, sir.
Q. Grandchildren?
A. No, sir.
Q. Who was your grandfather?
A. James T. Sweringen.
Q. Is he living or dead?
A. Dead.

Q. How long has he been dead?
A. He died in December, 1872.
Q. The husband of your grandmother, the plaintiff in this case?
A. Yes, sir.
Q. What became of the trustee- mentioned in these two deeds?
A. Both are dead; John O'Fallon Farrar and Charles Sweringen are both dead.
Q. When did Charles Sweringen die?
A. About two years after my grandfather; in 1872.
Q. And John O. F. Farrar?
A. He died in 1878.

Mr. ALLEN: When you speak about your grandfather you mean Chas. Sweringen died in 1872?
WITNESS: Make it about 1874.

Q. Thomas Morrow, trustee—he is also dead, is he not?
A. Yes, sir.
Q. When did he die?
A. I think Morrow died about the year 1890.
Q. Only six years ago?
A. Yes, sir.

133 By Mr. DRABELLE:

Q. What property was he trustee of?
A. Charles T. Sweringen was trustee for lot # 33.
Mr. BELL: Will you look at this plat and the property sued for in this suit, bounded by those blue lines on the north and the south, bounded east by the Mississippi river, and bounded by this line across there, which you see is 11 feet from the right of way occupied by the railroad? Now, have you ever seen that property—plat, p. 164?

Mr. ALLEN: We object to that question as being immaterial, irrelevant, and incompetent, and the further reason that this plat has not been shown to be correct.
COURT: Objection overruled.
To which ruling defendants then and there excepted.

Q. You have been there?
A. I have.
Q. How recently have you been there?
A. Two weeks ago.
Q. Describe to the court that ground—what there is on it, Mr. Barrett, if anything.

Mr. ROBERT: We object to the question as being incompetent, irrelevant, and immaterial.
COURT: Objection overruled.
To which ruling of the court the defendants then and there excepted.

A. I commenced my first visit; I went with grandfather, James T. Sweringen, and Captain Silas Bent, in the year of 1868 or 1869, to

this very identical property, and we went with a view to having it surveyed. They had surveyors with them, and I went and assisted in carrying the chains. I was a small boy at the time, and I remember there being squatters and little boats along down in here.

Mr. ROBERT:

Q. Where?

A. I was in the vicinity about this place. I could not be further from the house where we took our dinner.

Mr. ROBERT: Block 308 E.?

134 A. Where the squatters were, and I think as far west as this, I think.

Mr. ROBERT: As far as the middle of the block 660?

A. Possibly.

Mr. ROBERT: Were the squatters down as far as Commercial street?

A. Yes, sir.

Mr. BELL:

Q. Where was the river bank at that time, Mr. Barrett?

A. At the time we went there there was even so much water in that vicinity that they could not do their work as they intended to do.

Q. Was that the ordinary stage of the river of the Mississippi or was it high water?

A. I think it was high water.

Q. What time of the year was it?

A. In the summer months.

Q. In 1868?

A. 1868 or 1869; previous to grandfather's death, about three years.

Q. Now, Mr. Barrett, how frequently since 1868 have you seen this ground? How frequently since have you seen it?

A. I have seen it off and on all the time; as I grew up to manhood, I would go on that ground and other property belonging to the family; I went with different members of the family, and after I arrived at the age of maturity I went myself.

Q. During this period the ground has grown about 600 feet to the east?

A. I should think at least that much, if not more.

Q. State whether or not that has been a gradual growth.

A. I think so; it all came from the accretions.

Mr. ALLEN: We object to what he thinks.

COURT: Yes.

WITNESS: I will say absolutely from my observation there has been a constant increase.

Q. Gradual?

A. Yes; gradual.

Q. A man standing there would not see the ground grow, but going back at intervals he would observe it had grown?

A. Yes, sir.

Q. What do you know of that slough as it came above the water?

135 Mr. ROBERT: We object to that question; not shown he is an expert on that.

COURT: He can state if he knows.

To which ruling defendant duly excepted.

A. I should think the accretion was from river sand.

Q. Corresponding with the bottom of the river?

A. Yes, sir.

Mr. ROBERT: Why don't you be sworn, Mr. Bell?

Q. As to any undergrowth—willow trees—were there anything of that sort?

A. Yes; there are some still on this property.

Q. That have grown up since the earth was above water?

A. I take it to be so. I remember to have seen them when they were much smaller than now. There are quite good-sized trees there.

Q. I understand you to say, in your visits from time to time during the last 25 years, you have noticed this growth?

A. I have, sir.

Q. Where is the line today with reference to the water, above or below it?

A. It is above it.

Q. Can you walk now to the river front on this accretion opposite Mrs. Sweringen's property without difficulty?

A. Yes, sir.

Q. Without getting wet?

A. Yes, sir.

Q. Is there any wharf on this property?

A. There is a projection up there, made by Mr. Joy.

Q. How long has Joy been in occupation there?

A. I should think six or seven years.

Q. Is there a railroad track crossing the property north to south?

A. Yes, sir.

Q. How long has that been down?

A. I should think many years—between five and seven years.

Q. You think Joy went there before the railroad company?

A. About the same time, I think.

Q. Did I understand you to say that no wharf was on the
136 property?

A. Yes, sir.

Q. No posts for steamboats to tie up?

A. I never saw any.

Q. Any grading done on the property?

A. I have never known of any.

Q. No improvement of the wharf was made?

We object to his leading the witness.

Q. Did you ever see a steamboat attached to the bank?
A. No, sir.
Q. At this point?
A. I have seen some of Joy's boats—lumber barges.
Q. You have seen the property, as you say, two weeks ago?
A. Yes.
Q. Back here on 1st street, between 2nd and 1st street, has Mrs. Sweringen any improvements?
A. She has some improvements.

Mr. ALLEN: We object to the question as being immaterial and incompetent.
COURT: What is the purpose?
Mr. BELL: We are suing only for the eastern part, because Mrs. Sweringen is in indisputed possession of the balance. The property runs here and runs to the river bank. This has all been added to the property by accretion, but we are only suing for that which lies between there and there (here indicating to court by plat).
COURT: I think you are entitled to show that.
(To which ruling defendants duly excepted.)

A. She had some improvements between First and Second street, one of those houses I spoke of that I took my lunch in.
Q. What lot is that?
A. 308 E.
Mr. ALLEN: Fronting what street?
A. The house is near 2nd Str.
137 —. Did it extend onto these lots 34 and 35?
A. Yes.
Mr. BELL: Have you been familiar with that property since the time you spoke of in 1868?
A. Yes, sir.
Q. State as to whether Mrs. Sweringen's possession has been disturbed, if at all, during that time.
A. Never at any time.

Objection.
COURT: Objection sustained.

Q. Who paid the taxes?
A. We paid the taxes; my grandmother did. Mr. Farrar and I now pay the taxes.

Mr. ROBERT:

Q. Taxes on what?
A. This property running down to the Mississippi river.
Mr. ROBERT: You mean to say your grandmother paid the taxes on the property between the Mississippi river and the east line of block 2544. Did she ever pay a cent of taxes on that?
A. Yes, sir.
Mr. BELL: You know about the taxes?
A. I do.

Q. Have you during this period known of any one exercising or attempting to exercise any rights with reference to this property?

Mr. ROBERT: We object to the question as leading. He is putting the answer in the witness' mouth. I think he really ought to let the witness testify.

COURT: I think the question is generally leading. He is an intelligent witness.

Mr. BELL: My question is whether while this witness had charge of the property he had ever heard of any claim being made to the property or any part of it adversely to Mrs. Sweringen, except the claim of the lessors of the city of St. Louis, the city itself, and the railroad building a track there?

Mr. ROBERT: Suppose he had never heard any claim; what difference does that make?

138 Q. Who is paying the taxes now, Mr. Barrett?
A. I am, sir.

Mr. ALLEN: We object to that question, as it is immaterial who is paying taxes at this time.

Objection overruled; to which ruling defendants duly excepted.

Q. For how many years have you paid taxes?

A. I paid taxes this year, and other years were paid by the agents, Farrar & Tate, & Farrar & Co.

Mr. ROBERT: Give the receipts. We object to that evidence.

COURT: Objection sustained.

Q. Mr. Johnson wants you once more to describe the house on the west end of these lots; what is it built of?

A. A frame house.

Mr. ALLEN: We object to the question as being irrelevant and incompetent and not referring to the property in controversy.

COURT: Objection overruled.

To which ruling defendants duly excepted.

Q. Occupied by a tenant?

A. Yes; it was; and there was another one further east that has since fallen away.

Q. When were those houses built, Mr. Barrett, the house near 2nd street?

A. I suppose, before I was born.

Q. What year was that?

A. 1861.

Cross-examination.

E. S. ROBERT, Esq.:

Q. How old were you when you went with your grandfather to survey this property?

A. I was about eight or nine years of age.

Q. What year did you say you made that visit to the property?

A. In 1868 or 1869.

Q. And when do you say you were born?
A. 1861.
Q. How often have you visited the property in the last 11 years, Mr. Barrett?
139 A. Until within the last three years, I suppose I did not go there oftener than once—probably once or twice a year.
Q. You did not have charge of it?
A. No.
Q. You were simply interested, Mrs. Sweringen was an old lady?
A. I thought I had a right to look at the interests occasionally.
Q. Did you ever hear of a claim made by Mr. Liebke to part of this land?
A. Never, sir.
Q. Did you know Mr. Liebke was in possession of a part of it?
A. No, sir.
Q. Do you know that in 1857 a lease was made by some of the Buchanans to a part of it?
A. No, sir.
Q. And that Liebke occupied it for many years under that lease?
A. No; I do not remember.
Q. You know Mr. Liebke now claims part of that strip from 2nd Str. to the river and is claiming to be in possession?
A. No, sir; I heard this morning from Mr. Collins that Mr. Liebke—the Tyler estate and Mr. Liebke were litigating a title—litigating for the title to a small strip of land through their property, but I did not understand it ran through ours. Mr. Collins stated possibly it would run a few feet on our land.
Q. And you say you went up with your grandfather and Captain Silas Bent, who was a son-in-law of Mrs. Mary L. Tyler?
A. Yes.
Q. And do you know whether or not he was her agent at that time?
A. I think he was.
Mr. ALLEN: Who was Mr. Sweringen's agent in 1870?
Mr. BELL: The rule requires cross-examination by one counsel.
Mr. ALLEN: We are trying two cases in one.
COURT: Go ahead.
Q. Your grandfather died in 1870?
A. Yes, sir.
Q. Did he look after her property?
A. Yes, sir.
140 Q. The property was in her name also?
A. Yes, sir.
Q. Who was your grandmother's agent in 1879?
A. Farrar & Co.
Q. Who constituted the firm of Farrar & Co.?
A. First it was Farrar & Co., and Farrar & Tate then. They were young men at that time—just commencing.
Q. Who commenced previous to that?
A. Father did, in 1875, and the business was turned over to Farrar Brothers, and the son John O'Fallon Farrar and the son Charles T.

Farrar started in business together, and afterwards they took Frank Tate, and continued in charge of the affairs. John O'Fallon Farrar died, and Mr. James Farrar succeeded him, with Charles T. Farrar, and they took in Frank Tate.

Q. I notice on this plat which you have referred to once or twice the lines in green, indicating, as I understand *is*, -hat is claimed — Mrs. Sweringen's property. I notice certain streets laid out and named here. There is First street, Hall street, a space for a street east of block 660, which appears no name, and the space for a street east of block 660 E., or it may be intended for an alley. Which of those streets were there prior to 1891?

A. Hall street.

Q. Do you know how long Hall street has been there?

A. I cannot *day* how long it has been there according to my recollection.

Q. Do you know when that street was opened by the city?

—. ——.

Q. Hall street was formerly called Kennett?

A. I do not remember that.

Q. You have known it since 1885 as a street?

A. I have known it as a street. They have called it Hall street. That is my recollection.

Q. You do not remember before 1885 whether it was known by either Hall or Kennett?

A. I do not remember a street there at all.

Q. Did I understand you to say, in reply to a question by Mr. Bell, that there never had been since your recollection any
141 time when your grandmother'-, Mrs. Sweringen's, title or possession had been disturbed?

A. I said she was not disturbed at any time, as far as I knew. Squatters were on this property, and they had to be put off.

Q. If there was any change of title to any property extending from the western part of block east, as indicated by green lines, you do not know?

A. No, sir.

Q. You *fo* not know there was ever a deed or transfer of any sort made by which Martha J. Sweringen's title was affected?

A. No, sir.

Q. You never heard of it?

A. No, sir.

Q. In no way?

A. No, sir.

JOHN G. JOYCE, being duly sworn on behalf of plaintiff, testified as follows:

Direct examination by E. P. JOHNSON, Esq.:

Q. Your name, please?

A. John G. Joyce.

Q. What is your business?

A. Civil engineer and surveyor.

Q. How long have you been engaged in that business?

A. I have been thirty years in the city of St. Louis and fifteen years before I came here—forty-five years altogether.

Q. Will you look at that plat and say who made it?

—. This plat was made in my office by my draughtsman, under my supervision.

Said plat is as follows:

(Here follows map marked p. 141.)

142 Q. Is that a correct plat of lots 33, 34, and 35, in those blocks—city blocks 307, 661, 660, and so on?

—. ——.

Q. 90 feet of Sweringen property?

Mr. ROBERT: We object to the question. It is an improper question.

Q. Take these two deeds and state whether that is a correct description of the property in it. Those are the last two deeds we read in evidence of this property to plaintiff in the case.

A. Yes; I believe these are the deeds by which I made this plat. These are the deeds from which I made this plat.

Q. After having examined the deeds and this plat, I understand you to say where it is marked green around the edges correctly represents those lots # 33, 34, and 35, described in those two deeds.

Mr. ALLEN: We object to the question. He would have this witness conclude this case.

COURT: I think so, Mr. Johnson. It is the very question we are trying here.

Q. Mr. Joyce, I will ask you if you are acquainted with the land embraced within the green lines on this plat—the land itself.

A. Yes; I am acquainted with the land.

Q. How long have you known it?

A. I think for about twenty-eight or twenty-nine years—somewhere in that neighborhood.

Q. You see on this plat is marked towards the western edge of it the Mississippi river at the time of the sale by Milburn. If you know, state the character of the land within those lines, extending east from that line of the Mississippi river.

A. It is alluvial, made by the river receding—simply a depository.

Q. And simply an extension from this west line of the river by accretion?

A. Yes, sir.

Mr. ALLEN: I do not like to make an objection, but the gentleman is leading his witness.

143 Q. Mr. Joyce, you know the number of the lots Mrs. Sweringen owned between those green lines. Do you recall them?

A. I think thirty something.

Q. Just look at the deeds.

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A. There are two lots. There are three thirty-foot lots and mentioned in the deeds and lines of this land, continuing direct in the river in this plat. These green lines represent the north and south line of these three lots right out to the river bank.

Mr. Drabelle:

Q. Give the number of the lots.

A. # 33, 34, and 35. I believe that is what it is.

Q. When you first knew this land, Mr. Joyce, the first time, what was the condition of it—these lots extending down to the river bank?

A. On the river bank I recollect making a survey of the Mississippi river in 1867, from the mouth of the Missouri down to the city of St. Louis. I surveyed along the river bank at that time. My recollection is it was solid enough to walk on at that time. That was between that and what is shown on that marked as the bank of the river. You could not walk on it at certain seasons.

Q. Swampy?

A. Yes, sir.

Court: That is the present bank and the original old bank?

A. Yes, sir; in extra high water. It is inclined to be swampy yet. Immediately after high water it is very slimy, but after that is dried up it is in reasonably good condition, and they improved it with a drain for the water to go out. It was not heretofore when the water went in there. The water was locked there and could not get out. You were city counselor when it was drained out.

Q. Mr. Joyce, do you recollect the condition of this property, say, along prior to 1890; 1885 to 1890—along there?

A. I cannot be definite about it. I only saw it. I would pass by, making surveys, and paid no particular attention.

Q. What was the condition of this property between these
144 green lines, between the east line of block 2544 and the river, at that time?

A. When I made the survey for Mr. Joy there was some bush there. Willows had grown up. There were regular squatters down next to the river. They called it Oklahoma. I made a sketch of that.

Q. What improvements are on it?

A. I did not see any improvements except the squatter houses.

Q. Was there any indication of a wharf there; any improvement for a wharf?

A. Nothing of that kind.

Q. Look at this sketch and tell the court who made that?

A. I did.

Said sketch is as follows:

(Here follows sketch marked page 144.)

145 A. Dock street is on this plat.

Q. This property is just 60 feet north of Dock street. How far, approximately, does this sketch extend north of Dock street up the river?

A. About one hundred feet or one hundred and fifty feet.

Mr. ROBERT:

Q. Do you know?

A. That is a guess; no more than a guess.

Mr. ROBERT:

Q. Is there any rule by which you made these drawings?

A. I made some measurements when I did make that.

Q. About how far, approximately, from the river bank would you say it was up to the railroad?

A. My recollection is somewhere in the neighborhood of 250 feet from the river bank up to where these houses are shown.

Q. That shows, then, the condition of the north portion of city block 2544, 66 E., and 660?

A. Yes, sir.

Q. Is that a true sketch of the condition of the place at that time?

Mr. ROBERT: Did you make the sketch?

A. I did. I made the notes and a draughtsman made the sketch.

Q. How do you know the scale on that sketch?

A. I can tell from my notes.

Q. Tell how many shanties?

A. From the notes.

Q. How far is it from this house here down to this lumber pile that it appears to be?

A. My recollection is about two hundred and fifty feet or three hundred.

Q. All of this testimony of yours in regard to sketch is pure guesswork?

A. It is guesswork.

Q. You cannot, of course, remember the distances yourself, and have not consulted your notes lately to refresh your memory?

A. I used my notes, and after it was done they were destroyed.

Mr. ROBERT: We object to the introduction of it. It is only guesswork, so far as this representation is concerned; only guesswork about the distances, but a true representation of the
146 wharf at that time.

Mr. BELL: The river bank, you mean?

COURT: It does not appear to be sufficient evidence to show that this wharf was opposite to the property in question.

Mr. DRABELLE: I think I can clear it with one question.

Q. Mr. Joyce, at the time you made that sketch you made it from a survey for Mr. Joy of property situated on Dock street?

A. Yes, sir.

Q. You received an order from Mr. Joy to make a sketch of certain property south of Dock street?
A. Yes, sir.
Q. And from that survey you made that sketch?
A. I made a different sketch for this map here.
Q. At the time you made this sketch did you have any order for a survey north of Dock street?
A. No, sir.

Mr. JOHNSON: I wish to explain to your honor. Here is Dock street, and our deeds and plats read in evidence show this property exactly sixty feet north by the north line of Dock street; then comes the 90 feet of Sweringen. Now, the witness testifies that we are some two hundred or two hundred and fifty feet from Dock street to north *the* end of this plat, so necessarily it covers this land. That is the point I wish to bring out.
COURT: Suppose it shows 250 feet—Mr. Joyce, that is my recollection.
Mr. JOHNSON: This plat was merely made for us to see how the place looked at that time. That represents everything there at that time.
Mr. JOHNSON: I will submit the sketch to you.
Mr. ROBERT: It does not show the lots in controversy.

Q. You are certain this sketch covers the property?
A. Yes, sir,
Q. Mr. Joyce, you say you have been surveying here in the city of St. Louis for the past thirty years?
A. Yes, sir.
147 Q. Have you frequently had occasion to survey lots up here in this district where these accretions are?
A. Occasionally I go there, the same as the balance of the town.
Q. Do you know how that property has been held with reference to location or division of these accretions among the proprietors for the past thirty years?

Mr. ALLEN: We object to that question as being entirely a conclusion.
Mr. ROBERT: We do not care about Mr. Joyce'- opinion of it.
COURT: It is too indefinite. It is proper to show what was done by different parties.

Q. What was done towards the exercise of ownership? Just state what, to your knowledge, has been done with reference to the exercise and claim of ownership in these accretions along that bank of the Mississippi river with reference to their lands on the shore.

Mr. ALLEN: We object to the question. I submit the question is entirely too broad and calls for a conclusion of the witness.
Objection overruled; to which ruling defendants duly excepted.

A. The question of accretions in this immediate vicinity has not come up in any case except that of Mr. Joy. His was the first I sur-

veyed to the river bank, and I never heard the matter discussed since in Carondelet——

Mr. ROBERT: We object to his giving the usage or custom in Carondelet.

Mr. JOHNSON: There is no custom at all about it.

COURT: Go ahead with the answer.

Mr. ROBERT: Note our exception on the ground the question was not asked him.

Objection overruled; to which ruling defendants duly excepted.

A. In Carondelet, when I have been surveying there, the streets are continued out into the river, and the lots also run out—
148 that is, the division of lots between the streets. These division lines have been recognized running out to the river; that is the way we survey; that is the habit of surveying, and I never heard it questioned.

Q. Simply an extension?

A. Yes, sir.

Q. And accretions, no matter what *the* amount is produced, goes with the ground?

A. Yes; goes with the ground.

Mr. ALLEN: We object to that as incompetent, irrelevant, and immaterial; as not relating to the parties or property in this suit; as stating a conclusion of the witness, and as attempting to show a custom not general, nor even local to the neighborhood of this property.

Objection overruled; to which ruling defendants duly excepted.

Q. How many surveys have you made since you have been surveying in the city of St. Louis at places that went down to a point of the river from the original bank?

A. It is only this one case, where I ran the lines out to the river—that is, continuing the side line of the lot as laid out in 1841.

Q. Do you know how these accretions up here on the west bank of the Mississippi river, in this vicinity, that are bounded by the river are platted and are assessed on the books of the city and State?

Mr. ROBERT: The plats are the best evidence.

COURT: Objection sustained.

Mr. BELL: Mr. Johnson, suppose you have him tell the court what occurred on the river front in 1861, when he first saw it at this point, and the present day.

Q. How much has the river receded per foot?

A. I do not think there is much of a change in the bank from the old water works that is the foot of Ferry street down to Elwood street; not much to amount to anything.

Q. I am talking about this property—this Sweringen lot.
149 How much has the shore gone—how much has the river receded since you first saw it up to the present time? The Sweringen lot is 50 feet north of Dock street.

A. I do not know how to answer that question. The points were so irregular, although I recollect walking along that bank in 1866, and there were some ponds formed behind that bank between that and Broadway.

Q. And they have since filled up?

A. Yes; they have since filled up.

Q. You can now walk on this lot to the river front, as shown by this plat?

A. You can walk on any part of that just now.

Q. Are you able to say—you say you saw this first in 1868, when you made the survey down the river front; was the river front at that time east of the location of the railroad right of way east on that plat or west of it?

A. My recollection is it was east of it.

Q. How far east?

A. I cannot tell. Mr. Moulton is here. He got the survey I made at that time. He will be able to tell.

Q. This plat shows the river bank at what time there?

A. Along in 1841.

Mr. ROBERT: That is the Moulton survey. The land sold by Milburne, sheriff.

Q. How much has the ground grown since that day up to the present, Mr. Joyce? Will you tell us how many feet has been added to this territory from the time of that Milburne sale to the present day?

Q. About sixteen or eighteen hundred feet—about two thousand feet.

Q. Sixteen or eighteen hundred feet, measured down between the north and south line of the Sweringen property?

A. Yes, sir.

Mr. ALLEN: We object to his assuming it is the Sweringen property.

150 Objection overruled; to which ruling defendants duly excepted.

BELL: The original Sweringen property, how does that suit you?

COURT: Between the north and south line?

A. Yes, sir; of the original Sweringen property is about sixteen hundred feet.

Q. That was the line in 1850, and in forty-six years about sixteen hundred feet have been added?

A. Yes, sir.

Mr. JOHNSON: Have you a plat showing the photograph of the bank of the river at the time or prior to this accretion?

A. There is a plat that shows it, but I would sooner depend on the record which is given from the book. The distance is not given on it, and the next reliable distance is that Milburn distance which I have testified to.

Mr. ALLEN: That paper is not an authenticated survey?

A. It is what is called the Mosburger map.

Cross-examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. Mr. Joyce, this plat (referring to plat # 2) that you have held several times and referred to as your field-notes, state what it is.

A. It is a map of that portion of the city between Buchanan street and Branch street and from 9th to the river.

Said map is as follows:

(Here follows map marked p. 150.)

151 Q. The field-notes from which you have made your various reports and from which you have testified as a surveyor in this case?

A. Yes, sir.

Q. Was this plat which was made from what you call your field-notes made as a result of your surveys?

A. Yes; as a result of my surveys. It is made from my field-notes, and then from the record in the recorder's office of that property.

Q. What records did you take it from?

A. From Buchannan's addition. Here is city block 661 east and so on.

Q. Did you verify the various measurements?

A. Yes.

Q. I observe here a stretch of land 90 feet wide extending from Hall street to the wharf, to the Burlington.

Mr. ROBERT: It does not come to the right of way.

Mr. ALLEN:

Q. You saw that ground?

A. Yes, sir.

Q. I find written there, "Survey made for Collins & Jamison, attorneys for Sweringen estate, November 27th, 1894." That green line was then the survey that was made by you for the Sweringen estate?

A. Yes, sir.

Q. And for Collins & Jamison, and correctly stated there the lines as you have them?

A. Yes, sir.

Q. From what you then surveyed according to their instructions. Then, according to their instructions at that time, this survey correctly states their property?

A. Yes, sir.

Q. That is to say, an extension from Hall street on the west to the wharf on the east?

A. Yes, sir.

Q. And is bound east by the wharf?

A. Yes, sir.

Q. When you made the survey for the Sweringen estate, at the

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request of the attorneys, and the property was pointed out by them you made the survey to the wharf?

Mr. JOHNSON: We object to that question as being immaterial.
COURT: Objection overruled.

A. Yes; I surveyed according to the instructions of the
152 attorneys at the time.

Q. You have been shown a paper here which has been several times shown to the court, but not identified or offered in evidence, having on it certain green lines extending to about the middle of block 308 E. eastwardly to the Mississippi river. Did you make that plat (referring to plat #1)?

A. Yes, sir; it was made by my draughtsman, under my supervision.

Q. At whose instance?

A. Mr. Johnson.

Q. When did you make it?

A. 3 or 4 days ago.

Q. And were the green lines extending from the western line a point 11 feet west of the Burlington down to what is marked Mississippi river?

A. These light lines were continued on to the river.

Q. I understand you to say you had instructions from Mr. Johnson?

A. Yes, sir.

Q. And were told to put the lines down to the river?

A. Yes, sir.

Q. Mr. Joyce, you know where Hall street is?

A. Yes, sir.

Q. How wide is it?

A. One hundred feet.

Q. Do you know that has been a street of the city of St. Louis?

Mr. BELL: Mr. Joyce'- evidence would be incompetent on that.

Q. With reference to that part of Hall street which is rectangular, made by what is called Hall street within the limits of this ninety feet which you referred to as being extended from block 308 east, you understand what I attract your attention to?

A. Yes.

Q. At the point which is called the Sweringen ninety feet, state whether or not Hall street had been a street; and, if so, how long to your knowledge.

Mr. BELL: We object to that. He is now calling upon Joyce to tell how long this has been a public street. He is simply demanding that he exercise his judgment as to what constituted a public street, and that is not competent.

153 COURT: Objection overruled.

A. I always recognized that as an open street.

Mr. BELL: We object to that answer.
COURT: Objection sustained.

Q. How long have you known that as an open street?

A. I think about fifteen or sixteen years.

Q. You have identified certain property as having been surveyed with reference to two deeds here whose description called for property in block 308 east?

A. Yes, sir.

Q. That extension of lines to which — referred as being clear to the river was made upon the basis that the lots in block # 308 E. called for a description to the river, and since the river had moved further east you continued those lines?

A. That is correct.

Q. And a further fact, in continuing those lines you carried them directly across and included Hall street?

A. That is the fact.

Q. Then I observe down here on the corner of what is marked Dock street and in the part marked wharf something written this way (referring to plat # 2): "Moulton established this corner by adapting the old stone on the north line of Ferry street and the old stone at Destrehan street and prolonged the same southwardly to Dock street"?

A. Yes, sir.

Q. What is that corner?

A. That is the corner of the northeast corner of Dock street and what the city claims as the wharf.

Q. Who is Moulton you put down there?

A. Mr. Moulton was the engineer for the city.

Q. That is the point of measurement which you used in connection with that survey?

A. Yes, sir.

Q. The point, a stone, would be recognized by you as established by Moulton, engineer for the city in the wharf department, as the corner to measure from?

A. Yes, sir.

Q. Did you mark this stone in the corner of Dock street
154 and the wharf as being a stone established, forming that corner?

A. I made a note on the map. I found the corner there and adopted that.

Q. And used it for the purpose of making your survey?

A. Yes, sir.

Q. Mr. Joyce, just take this present plat (referring to plat # 2), which has been referred to by plaintiff here and testified from, which has the green lines running down to the river marked Sweringen between. Now, then, where on that plat is this stone on the corner of Dock street and the wharf?

A. That would be sixty feet from this blue line.

Q. It would be on this line which is marked as being eleven feet west of the western line of the Chicago, Burlington & Quincy?

A. Yes, sir.

Q. As indicated on this present plat?

A. Yes, sir.

COURT:

Q. 60 feet southwest?

A. Sixty feet south from the line; that line continued down without any reference to the wharf line or any other line which I show on my field map. I can point out to your honor, if the gentlemen desire, where the stone is located on the tracing.

Q. You are referring to the stone on the corner of Dock street and the wharf?

A. Yes, sir.

Q. That is the supposed line, west line of the wharf, as shown by the city records and staked out by the engineer, Mr. Moulton?

A. Yes, sir.

Q. That stone is at the intersection of the wharf line, supposed west line of the wharf and the north line of Dock street, where the two lines meet each other?

A. Yes, sir.

Q. And the tracing which you hold in your hand, it is at the intersection of the north line of Dock street with a line which is noted as being eleven feet west of the west line of the Chicago, Burlington and Quincy. Is that right?

A. Yes, sir.

155 Q. Calling this the westwardly line, which is eleven feet west of the Chicago, Burlington and Quincy, the wharf line, how does that continue? Does it not continue in a northerly direction, and also 11 feet from the C., B. & Q., to a point as far north as Buchanan street—does it not?

A. Yes, sir.

Q. That line which we have called the wharf line is indicated in the same way on your field-notes, from which you have been testifying?

A. Yes, sir. This map has been made from my map of field-notes.

Q. It is a copy of the notes?

A. Simply a copy of it.

Q. Except as to that ground, the part extending through the Chicago, Burlington and Quincy tracks and the wharf to the river, that you say was put on three or four days ago at the suggestion of Mr. Johnson?

A. Yes, sir.

Q. That is the part which is marked as a continuation of the ninety-feet track from block # 308 eastwardly to the river line?

A. Yes, sir.

Q. You said something in your direct examination from your field-notes about having put here the Buchanan survey. What do you mean by that?

A. Buchanan's addition.

Q. Buchanan's addition you have marked green on the field-notes?

A. Yes, sir.

Q. What did that Buchanan's addition cover, as indicated on your field-notes here?

A. That Buchanan's addition covers a tract of land from a point 150 feet north of the north line of Dock street to the south line of Buchanan street and from Hall street to the river.

COURT: South line of what street?

A. The south line of Buchanan street. The continuation of Rocky branch is the south line of Buchanan street.

Q. That crosses Dock street southwardly, does it not?

A. It crosses Dock street southwardly, does it not?

156 A. It crosses Dock street southwardly, then recrosses it in a northeastwardly direction.

Q. You don't mean Rocky branch; you mean the old river bank?

A. Yes, sir.

Q. That is to say, at the time that the Buchanan survey was laid out?

A. Yes, sir.

Q. The Rocky branch ran into the Mississippi at a point some feet south of the south line of Dock street and the line of the Mississippi river then and continued in a northeasterly direction across a part of city block 660 E. and so on down so as to cross what is known as city block 2544?

A. Yes, sir; and across Buchanan street.

Q. You have on this plat here as being the old line of the Mississippi river this line of the Mississippi river at the time of the Buchanan partition, see Book 308, page 524?

A. That is correct.

Q. Then that is between the line of Buchanan's addition?

A. Yes, sir.

Q. Now, I notice that you have here opposite the mouth of Rocky branch the words "middle of Rocky branch"?

A. Yes, sir.

Q. Book 308, page 524, that indicates, that was indicated by Buchanan survey, the mouth of Rocky branch; is that right?

A. That is the mouth of Rocky branch as there indicated.

Q. As this is indicated in the Buchanan's addition or partition proceeding, — is some little distance to the southward of the south line of Dock street, is it not?

A. Yes, sir.

Q. And as the line of the Mississippi river extend*ing* at the time of the Buchanan addition it left a part of 660 E. and a part of block 660 extending to the north line of Dock street, did it not?

A. Yes, sir.

Q. Was not the Buchanan addition the property which is covered by the space of ninety feet here put down as being Swerin-

157 gen—is all to the northward and included within the space covered by Buchanan subdivision?

A. There is a part of it. That takes in the west line of Rocky branch in 1866 and the west bank of the Mississippi river in 1866. Rocky branch runs southeast and crosses the Sweringen tract and crosses Dock street to the bank of the river, and then the bank of

the river runs north in a northeasterly direction and crosses it again.

Q. You mean the river bank as there indicated, in 1866, you say was west of it, and east of it water?

A. Yes, sir.

COURT: How is that?

Q. Was that east of that bank and therefore included what is now part of block 2544 as covered by your green lines, for the Sweringen property was then in the river, was it?

A. Yes; it was east of the bank of the river.

Q. East of the bank of the river?

A. Yes, sir; whether there was any water there all the time or not I cannot say. In high water it was below it and low water it was above the water.

Mr. ROBERT: Do you know that?

A. I do not know that to be the case.

Q. Calling your attention again to the space within the Buchanan survey, take the line of the Mississippi river as indicated in 1866 and the line of Rocky branch as then indicated. Now take a point at the intersection of the north line of what is here put down as the Sweringen property, in block 660 E., with the Mississippi bank as then indicated and then the same easterly and westerly line of the so-called Sweringen property at Rocky branch. Can you tell how far that is?

A. About six or seven hundred feet, according to the plat.

Q. Six or seven hundred feet on the north line of the so-called Sweringen property is indicated by Rocky branch and the wharf and the then bank of the river on the east?

A. Somewhere there.

158 Q. Take a point at the intersection of the then line of the Mississippi river with the southern line of the ninety feet of Sweringen claim, and go to the Rocky branch, along that line of the Sweringen claim, and tell how far on the southern line of the Sweringen claim from the line of the Mississippi to Rocky branch is.

A. That would be about three hundred and fifty—perhaps three hundred and seventy-five feet.

Q. Now, then, I notice across this plat and extending across the green space marked by you as surveyed for Sweringen and being within the ninety feet referred to as claimed by Sweringen the western half of block 660 E. We have here Buchanan's.

A. That means the property in Buchanan's name, and recorded when the map was made.

Q. That extends across the ninety-foot strip, does it not?

A. Yes, sir; I went to the record for the purpose of finding the owner's name as they appear, and found that piece in Buchanan's name.

Q. City block 660 and just below Rocky branch and including some of this Sweringen claim I see the word McPheeters.

A. I put that name on at that time, when the map was made.

Q. Do you know when the map was made?

A. Two years ago, as this got worn out I put it aside and made a new map. They got worn out by use.

Q. I see here between city block 660 and 660 E. a space—white—that appears like other spaces that are used for streets. What is that?

A. That was laid out—at least it is my recollection it was a street laid out by Buchanan, and there was a question whether Buchanan had the right to lay a street out, and I believe when it was tested he had not; that is my recollection.

Q. Do you know when it was?

A. I only remember the circumstances.

Q. You know it was laid out by the survey and plat in Buchanan's subdivision as a street?

A. Yes, sir.

159 Q. At the same time Buchanan's street, when the addition was made, that was in 1866?

A. Yes, sir.

Q. Then I discover in the center—I discover what appears to be the centre of block 660 and running northwardly and southwardly from Buchanan street to the Rocky branch—what appears like the platting of an alley, which is marked at the intersection of Buchanan street twenty feet. What does that mean?

A. That dedication was made by Buchanan at the time he laid out the subdivision.

Q. Of what?

A. Of an alley.

The COURT:

Q. Where is that?

A. Block 660.

Q. Just to the westward of that is some property marked Julia Crosby. Where does that property extend to? It extends, does it not, to the Rocky branch?

A. Yes, sir.

Q. That intersection near Rocky branch is inside of the space which is in the green here marked by you as surveyed by Sweringen?

A. Yes, sir; I would like to state also I have got a note here along the line of city block 660, 660 E., and away up onto Rocky Branch line, signed April 13th, 1873, between Silas Bent and McPheeters, attorney for the Buchanan and Tyler estate, thirty feet.

Q. That is how far east of the Sweringen property—north, I mean?

A. That is one hundred and twenty feet.

Q. One hundred and twenty feet north?

A. Yes, sir; it runs parallel to the Sweringen property and one hundred and twenty feet north of it.

Q. Mr. Joyce, in block 660 E.—that is, east—I find here also what appears to be marked an alley, twenty feet wide. What is that?

A. That is the dedication when Buchanan laid out the addition.

Q. That extends from Buchanan street to the then line of the Mississippi river?

A. Yes, sir.

Q. Does that western side of that alley extend clear through
160 the so-called Sweringen tract, which is in green, and the eastward side extends north to the southern line of the ninety feet, does it not?

A. Yes, sir.

Q. Further to the east here and between blocks 660 E. and 2544, what is this wide space? It looks like a street.

A. That is the dedication for a street in the same direction.

Q. That is marked 60 feet wide?

A. Yes, sir.

Q. It indicates that a street had been dedicated sixty feet wide?

A. Yes, sir.

Q. That extends, does it not, from Buchanan street on the north to the line of the Mississippi river as then dedicated on the south?

A. Yes, sir.

Q. The then line of the Mississippi river at that time was a little to the east of the green—northward, I mean; to the north of the green space which is called Sweringen. In other words, it did not go as far north as the Sweringen property?

A. No, sir.

Q. At that time where was the southern part?

A. The southern part was in the river.

Q. The southern part was in the river?

A. Yes, sir.

Q. It is now all the way from Buchanan to Dock street. Is that right?

A. My memory does not serve me in that. I presume it is——

Q. Will you point to city block 2544 as it is on your plat?

A. Yes, sir.

Q. What would be a continuation of the east line of that street?

A. It would continue south to Dock street and on the east by the river or wharf line, whichever you choose. If you told me to make out a description, I would do just as you say.

Q. Mr. Joyce, suppose now you were taking new field-notes, and somebody come in and asked you how city block twenty-five forty-four was bounded, would you not say it was bounded on the
161 north by Buchanan street, south by Dock street, and west no name, and east by the wharf?

A. I would take the river, as the matter is in litigation.

Q. Is that not what your plat shows?

A. It is for my information.

Q. What does the plat show?

A. I am not sure it gives the distance from this and to the river bank.

Mr. ROBERT: What is marked on the plat; how did you designate it?

A. I have got the word "wharf."

Q. I understood you to say you surveyed all the northern river bank somewhere about 1866 or 1868?

A. In 1866 and '68 also; first when I went with Bishop, city engineer, and the next one was made with Moulton.

Q. Do you know what is known as the Kountz survey?

A. I cannot say.

Q. Have you seen it?

A. I must have used it. I know of the Sayer.

Q. Do you remember having seen this map?

A. Very *little* I have; all maps I have access to them; probably I have.

Q. Were you connected at one time with the harbor and wharf department?

A. Yes, sir.

Q. At that time did you make use of these different plats in the harbor and wharf department?

A. They were kept as a matter of record for necessity for any use.

Q. What was used principally, the upper bank or the lower?

A. The lower bank. I expect I have seen that. I do not know.

Q. Can't you tell whether it is the correct plat?

A. I am satisfied it is not.

The COURT: What is that called?

Mr. ALLEN: The Kountz survey, made in 1843.

Q. You cannot identify this map?

A. No.

The COURT: I would like, in order to make the record
162 clear, for the witness to state how these various blocks are bounded—that is, by what streets or what marks here on this map. I am only referring to blocks 308 E., 660, 660 E., and 2544; — are the only ones I refer to. Mr. Joyce, will you just point them out?

A. That is bounded west by Second street, on the east by First street, on the north by Buchanan street, and south by Dock street. Block 660 W. is bounded on the west by First street, I believe it is; on the east by Hall street——

Q. Do you know the former name of Hall street—do you remember it as formerly being Kennett street?

A. Yes, sir. On the south by Dock street and the north by Buchanan. Block 660 is bounded on the west by Hall street or Kennett street, on the east by Second street, that used to be called North Commercial, on the east by Commercial street, and south by Dock street, and on the north by Buchanan street. Block 660 E. is bounded — west by North Commercial street, on the east by a street without a name shown in Buchanan's addition, south by Dock street, and on the north by Buchanan street. Block 2544 is bounded on the west by a street laid out in Buchanan's addition without any name, on the south by Dock street, on the north by Buchanan street, and on the east by where it is the wharf line or the river.

Q. How long have you known block- 660 W., 660, and 660 E.?

A. For a long time.

Q. What do you mean by a long time?

A. Several years. These numbers were put on as the ground progressed and as the blocks were laid out. The street department supplied these numbers for the blocks.

Q. City block 2544. How long have you known that as being a number?

A. That I cannot tell; as a matter of fact, a good many years; probably some time in 1866; I cannot say exactly.

Q. Would you say it must have been in 1866?

A. May be 1866.

Q. Before 1875?

A. I think so.

163 Q. Between 1866 and '75?

A. Yes, sir.

The COURT: What block are you talking about?

A. Twenty-five forty-four.

The COURT: What was that about?

A. I have known it some time between 1866 and 1875. I cannot fix the date; I cannot fix the block numbers previous to that.

Mr. ROBERT: Are you positive about that?

A. I only know it is now.

Redirect examination by LEVERETT BELL, Esq.:

Q. Mr. Joyce, this plat that you have been testifying from, I understand, is a plat made by you?

A. Yes, sir.

Q. Now, your attention has been called to the fact that across the river front and across what is called the original Sweringen property, in question here, there appears in large letters the word "Wharf"?

A. Yes, sir.

Q. In point of fact, Mr. Joyce, is there any wharf there in existence today?

Mr. ALLEN: We object to that question as calling for a conclusion of the witness.

The COURT: Objection sustained.

Q. Is it just as nature left it?

A. As settled by the river.

Q. Any improvement on it at all?

A. No, sir.

Q. You have testified here, in referring to this plat, about various dedications made by Buchanan and others; what do you mean by that, Mr. Joyce?

—. ——.

Q. Do you mean you personally have any knowledge of any dedication? You told us you simply copied into this plat something you found on other plats.

A. My testimony is simply to the effect that I copied from Buchanan's addition—from the record of Buchanan's addition.

Q. But, as to whether or not there was any dedication, you do not pretend to say; you have no knowledge of that; you
164 simply copied another plat?

A. I simply copied another plat.

Q. This shows an actual survey of the line of the Mississippi river in 1893?

A. Yes, sir.

Q. Did you actually run out the water line there?

A. I ran it out for a short distance, I think, for Mr. Joy at that time.

Q. Will you tell us the distance from the west line of the property sued for in this case eastwardly to the water's edge between the lines projected? Now, what is the distance from the property sued for to the Mississippi river in 1893?

A. About three hundred and sixty feet, I make it.

The COURT: That is 1893?

A. Yes, sir; from the water's edge to what the city's claims as the west wharf line, about three hundred and sixty feet.

Q. You have no personal knowledge the way the Mississippi river was at the time of the Buchanan partition, before you ever saw it?

A. I did not see it at that time. I was here in St. Louis, but did not see it.

Q. You give that line from what you find in the books?

A. From the record.

Q. You have also given the line on this plat of the Mississippi river, North St. Louis addition, see Book 208; you have shown that line in the same way?

A. From the record.

Q. When you speak of the record, what do you mean?

A. The books in the recorder's office, which have reference to this property.

Q. You have copied off these lines that I have mentioned from the books in the recorder's office?

A. From the plat recorded.

Q. With the deed, for instance?.

A. Yes, sir.

Q. But the water line in 1893, as shown by this plat, you actually surveyed?

A. Yes, sir.

165 Q. You actually surveyed the line of the Chicago, Burlington and Quincy right of way?

A. Yes, sir.

Q. As they staked it out?

A. Yes, sir.

Q. By your examination of these various plats, Mr. Joyce, didn't you find that this property created west of the bank of the Mississippi river is divided among owners of land, projected on the same course that the original lines were on the surface of the earth?

Mr. ROBERT: That is testimony-in-chief.

The COURT: Objection sustained.

Q. To get this matter cleared up, as I understand it, this plat that you have made here does not represent any work done by you or your man, except the water's edge as shown here, and excepting the location of the right of way of the railway across this so-called Sweringen property; did you actually run out the northern line on the surface of the earth?

A. As shown here, I surveyed from this map. I surveyed for Collins & Jameson, for the Tyler estate, and I surveyed for the Sweringen estate, and I surveyed for Joy.

Mr. ROBERT: What are the colors?

A. The Joy is red, the Sweringen is green, the Tyler is red, and here is another piece of ground—I think Hafner property—is in green also.

Q. Mr. Joyce, did you actually run out on the ground this northern line of the city of St. Louis, shown on the plat or taken from other plats?

A. That has been run out.

Q. In making up this plat did you run out on the surface of the earth this line shown as the northern boundary of St. Louis, or take it from other maps?

A. I ran it out.

Q. This location you made on this map is the result of an actual survey you made of the surface of the earth?

A. Yes, sir.

Q. The east line of the Mississippi river is the result of an
166 actual survey?

A. Yes, sir.

Q. I see Rocky branch—here is a piece here between the Tyler estate and the Sweringen estate—the lines of the ground were actually run on the surface of the earth, were they not?

A. Yes, sir.

Q. You frequently use the expression in your cross-examination with reference to various streets, alleys, &c., that these were dedicated streets or alleys of the city of St. Louis. By that you mean that you have known these streets on the various maps and plats, and you assume they are all dedicated?

Mr. ROBERT: We object to the question as being leading.

Q. I will ask you if you yourself examined any papers constituting a dedication of these streets and alleys.

A. I did not examine any paper to see whether the dedication was correct. I merely copied the record.

Q. When you refer to the record you mean the plats on file in the recorder's office?

A. I mean Buchanan's addition, the plats filed by the Buchanan addition.

Q. Is any of this plat copied from maps at the city hall, wharf, or street departments?

A. The wharf is copied from the city hall.

Q. That is, copied from the map at the city hall?

A. Yes, sir.

Q. And that I suppose describes the west line of the wharf as it is located here on your plat?

A. Yes, sir.

Q. Now, Mr. Joyce, you have seen the survey of the Labeaume patent, have you?

A. Yes, sir.

Q. You are familiar with it?

A. Yes, sir.

Q. Are you able to state whether the property sued for in this case is embraced in the prolongation of the line of property contained in the original Leb-aume survey?

Mr. ROBERT: We object to that for the reason he should have gone into that in chief.

167 The COURT: I think the witness testified in regard to that. Answer the question.

To which ruling of the court the defendants then and there excepted.

A. The continuation of these lines would be inside of the Labeaume patent.

Q. I want to know if you take property in the Labeaume patent and continue its lines eastwardly to the present waters of the Mississippi river; that is the point I want to get at.

Mr. ROBERT: We make the same objection. The ground you are suing for is an accretion and of course did not exist at the time of the Labeaume patent.

Mr. BELL: I will get at it this way, in order to avoid any dispute—that is, if you project the line of the Labeaume survey of the Mississippi river, you will include the property sued for in this action, will you not?

COURT: The witness testified that; — is my impression. There is no objection to stating the fact now.

COURT: Can you state whether or not an extension of the north and south lines, if extended to the river, would embrace the property in question, if you know that to be a fact?

A. I know it to be a fact; I know the north and south lines of the lots is the property in question.

Mr. ROBERT: That is not an answer to the question put him.

Mr. ROBERT: I want to offer the plat in evidence that has been testified from, called plat #1. This record will be perfectly unintelligent without the plat. We are entitled to have them offer it in evidence. We ought at least have it attached to the testimony as explanatory of this witness' evidence.

Mr. BELL: I do not think it is competent to submit it to the court. It is not competent to exhibit a map to the jury.

168 COURT: If the map is not offered, that testimony will be excluded.

Mr. BELL: We will offer these. We offer the plats 1 and 2.

COURT: They both are in evidence?
Mr. BELL: Yes; both are in evidence.
Mr. BELL: On plat # 2 I see a red line. What line is that?
Mr. ROBERT: We object to this question. He has already testified about that line.
COURT: Objection overruled.
To which ruling defendants duly excepted.

A. Red line, by agreement signed April 3d, 1873, signed Silas Bent and William McPheeters, trustees for Buchanan and Tyler estate.
Q. Did you run that line out on the surface of the earth?
A. Yes; this was run out.
Mr. ROBERT: He asked if you run it out.
A. I believe my son run that out. It was done under my directions.
Mr. BELL: What line is that with reference to the Labeaume property?
Mr. DRABELLE: I do not see how that could be competent.
Mr. BELL: I am asking what line is that with reference to the Labeaume property, whether it is the boundary between the Labeaume patent and the patent to the north?
COURT: Objection overruled.
To which ruling defendants duly excepted.

A. This line was surveyed by agreement, signed April 3d, 1873, signed Silas Bent and William McPheeters, trustees for Buchanan and Tyler estates.
Q. Does that represent the division line?
A. That is the division line. That represents the northern line; it represents simply a line agreed to and the line so run out.
169 Q. How far north of the property sued for is that—how many feet?
A. That is 125 feet. Let me see; 120 feet north of the property in question; 120 feet north of the property in question.
Q. That is a line agreed upon between Buchanan and McPheeters?
A. I got it signed Silas Bent and William McPheeters.

COURT: Pass on to something else.

Q. Mr. Joyce, did you run that line from this plat?
A. I run it from this agreement. It was run from that and from the agreement both.
Q. You are familiar with the Rocky branch where it runs through the lines north of Labeaume survey?
A. That was sewered out years ago.
Q. Were you familiar with Rocky branch before it was sewered?
A. Yes, sir.
Q. When was the sewer built?
A. 27 or 28 years ago.
Q. Were you familiar with the condition of things at Rocky branch prior to the building of the sewer?
A. No, sir.

Recross-examination by CHARLES CLAFLIN ALLEN, Esq.:

—. You say you used this plat which has the agreement of Mary L. Tyler, by Silas Bent, and William McPheeters, for the Buchanan estate, dated April 3d, 1873?

A. Yes, sir.

Q. Which has been identified by Mr. Collins?

A. Yes, sir.

Q. You used this plat in making the survey?

A. Yes, sir.

Q. Was it this plat or a copy of it?

A. I used that literally.

Q. In surveying all these various lines you referred to Mrs. Sweringen's property being bounded by the wharf, did you not?

A. I presume so.

Mr. BELL: But there is no wharf there.

Mr. ALLEN: I understood it was offered in evidence.

Mr. DRABELLE: It was taken subject to objections.

170 (And the objections were overruled; to which ruling defendants then and there excepted.)

Q. Mr. Joyce, you said in your redirect examination you had no personal knowledge of the river in 1866. Didn't you testify you made a survey as early as 1866?

A. I made it before 1866. I think it was in 1867 I made the survey. My recollection is it was in 1867.

Q. Then, if you made your survey in 1867, the testimony you gave originally yesterday in your direct examination as to the stage of the river was shortly after the Buchanan survey was made?

A. Yes. My recollection is in 1867 I made the first survey of the river.

Q. Do you remember about some longitudinal dikes in the river?

A. I know they built the dikes in 1867.

Q. Where?

A. Along what is shown as low water on the eastern line of the river.

Mr. BELL: Who do you mean when you say they built?

A. I cannot tell. I presume the city. I cannot tell possibly who ordered it.

Mr. ALLEN: Upon the order of the harbor and wharf department?

A. I did not have anything to do with that part of the work. Mr. Rapp was the engineer.

Q. Don't you remember, when you first knew that property, an old spur dike was there—before the water was about Ferry street a dyke was built there?

A. The only dyke is the one built by the water works opposite, north of Ferry street, to project the bank from the river, and I built one myself.

Mr. BELL: For the city?

A. Yes, sir.

Mr. ALLEN: When was that?

A. It must have been in 1876. I think it was 1877. I think that is it, 1876 or 1877. That is my recollection.

171 Q. Don't you know, as a matter of fact, some longitudinal dikes went up there before 1877; the first was built there in 1876?

A. I cannot tell at what part of the river.

Q. I understood you to say on field-notes offered as plat # 2 there has been a survey by you actually?

A. Yes, sir.

Q. That includes the green strip marked Sweringen property down to the wharf?

A. Yes, sir.

Mr. BELL: He has stated that ten times.

Mr. JOHNSON: I have a number of old tax receipts which appear on the location of this property and the claim to it running from the year 1851 down about 1870. The first receipt is——

Mr. DRABELLE: What is the purpose of offering these?

Mr. JOHNSON: It has two or three purposes. It bears on the location of this property, and during the time these parties claim it with Buchanan's claim I am offering tax receipts. Tax receipts are always evidence tending to show possession and claim.

COURT: I think they are competent for the purpose of showing the boundary line.

Mr. JOHNSON: I will offer these for all purposes.

Objected to by defendants as incompetent, irrelevant, and immaterial, as not describing or relating to the property in controversy.

Objection overruled; to which ruling defendants then and there duly excepted.

Offer of tax bills in evidence withdrawn temporarily.

CHARLES T. FARRAR, being duly sworn on behalf of plaintiff, testified as follows:

Direct examination by E. P. JOHNSON, Esq.:

Q. Your name, please.

A. Charles T. Farrar.

Q. You reside in the city?

A. Yes, sir.

Q. You are acquainted with Mrs. Sweringen, are you not?

A. I am.

Q. What is your business?

A. Real estate.

Q. How long have you been at that business?

A. Twenty years.

172 Q. Did you have charge and control of Mrs. Sweringen's property at any time during that point?

A. Yes; since 1875.

Q. I will ask you to look at this plat (referring to plat # 1) and see whether you are familiar with that property marked in green.

Mr. ALLEN: We object to that as identifying plat #1 and explaining to the witness and referring to property which has not been shown to have been the property of the plaintiff.

COURT: Objection overruled.

To which ruling the defendant then and there duly excepted.

A. Yes, sir; I had charge of this from 2nd street and to the river.

Q. When do you first recollect noticing that property, Mr. Farrar, or looking after it?

A. October, 1875.

Q. What improvements, if any, were on this property in green at that time—what houses, if any?

Mr. ALLEN: Same objection.

Objection overruled; to which defendants then and there except.

A. A few squatters.

Q. What houses do you recall on the west end there of the ground?

A. There is no house here. On this lot there were several outside of the ground you speak of.

Q. Didn't the house extend over on the green property?

A. No, sir.

Q. What did you do in connection with that property for Mrs. Sweringen during twenty years?

A. I took general charge of it and paid the taxes.

Q. What was the condition of that property when you first saw it?

A. Pretty low.

Mr. BELL: Under water?

A. Under water, if it was high water and low, but not under low water.

Mr. BELL: In ordinary stage it was above water?

A. Yes, sir.

173 Mr. JOHNSON: How often do you visit that property?

A. Every few months.

Q. What act did you do in relation to it?

A. On several occasions I put the squatters off.

Q. What do you mean by squatters?

A. The people that go there and take possession and build a little shanty and live there.

Q. On the river front?

A. They squat all along there clear down to the river. Some build boats, and at high water they would float.

Q. How for did you exercise that control over that property for Mrs. Sweringen—how far down?

A. To the river.

Q. How long have you continued to do that and how often?

A. From October, 1875, down to within a month or two.

Q. Do you recollect where the railroad and Mr. Joy went on this part of it next to the river?

A. I think three or four or four or five years ago.

Q. Up to that time have you kept off and warned squatters to keep off clear down to the river bank?

Mr. ALLEN: We object to the question as leading.
COURT: Objection sustained.

Q. How far have you exercised this control up to the time the city and Mr. Joy and the railroad —, I should say?
A. We kept them off and kept possession of the property and paid the taxes on it.

Mr. ALLEN: We object to the answer. It is not responsive, and is an opinion given by the witness.
COURT: I think the possession—that is an opinion of the witness. That part will be stricken out.

Q. Prior to that time what did you do with reference the presence of squatters on that land between the river and, say, two or three hundred feet west?
A. Notified them to leave.
174 Q. What was the effect of your notification to them?
A. They usually moved off.
Q. So they did leave when you notified them?
A. Yes, sir.

Mr. BELL:

Q. Did you ever hear of any adverse claim except the city'-? During that time did you know of anybody else attempting to interfere with Mrs. Sweringen's control over this property except the squatters who would leave when you notified them?

Mr. ROBERT: We object to the question as incompetent and calling for a conclusion of the witness.
COURT: Objection overruled.
To which ruling defendants duly excepted.

Ans. No; I never heard of any one.
Q. From 1875 up to the time the railroad and Mr. Joy went on it?
A. No, sir.
Q. Do you know whether the railroad obtained Mrs. Sweringen's consent to go on it?
A. I never heard of it.

Mr. ALLEN: We object to the question as immaterial.
Objection overruled; to which ruling defendants duly excepted.

Q. Or Joy either?
A. No; I never heard of that.

Mr. BELL:

Q. The city of St. Louis?
A. No.

Cross-examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. You say you have been Mrs. Sweringen's agent since 1875?
A. Yes.
Q. Were you her agent in 1879?

A. Yes, sir.
Q. All of 1879?
A. Yes, sir.
Q. You say there has never been any person who made any claim or had any possession from the west half of block 308, which fronts on First street, clear down to the river from 1875 until the railroad built its tracks?
A. Yes, sir.
Q. You never heard of any?
A. No.
Q. Never heard of any interference with the title of Mrs. Sweringen's property?
A. Never did.
175 Q. You never did?
A. No, sir.
Q. No part of it?
A. No, sir.
Q. Did you transact all her business?
A. Yes, sir.
Q. You paid all her taxes?
A. Yes; in connection with my uncle, Judge Farrar.
Q. You have testified, didn't you, that you have paid the tax always?
A. The judge and I.
Q. Who attended to street-opening matters?
A. We did generally.
Q. Did you ever know about any street being opened there?
A. I do not recollect now.
Q. Never heard of it?
A. I do not recollect.
Q. Do you know where Hall street is?
A. Yes; that was called formerly Kennett.
Q. Do you know anything about the opening of Kennett street?
A. No; I do not recall it?
Q. Do you remember whether Mrs. Sweringen had anything to do with the opening of Kennett street?
A. I think she did.
Q. Do you remember whether Mrs. Sweringen was assessed any benefits or damages?

Mr. BELL: That ought to be proven by the record.
COURT: Objection overruled. I cannot remember without referring to any books.

Q. Hall street or Kennett street from Dock street north goes right through this ninety feet which you have spoken of as being a continuation from city block 308 E. clear down to the river?
A. Yes, sir.
Q. It takes in 100 feet in width there, does it not?
WITNESS: Which way?
Q. I mean 100 feet in width of the street east; the street, in other words, is 100 feet wide?

A. I do not know.

176 Q. You do not know how wide it is?

A. No.

Q. You know the street is there, don't you?

A. There are streets on the plat.

Q. Don't you actually know the street was opened by the city of St. Louis, the one there between the river and 2nd street?

A. I do not recollect.

Q. You do not know?

A. No; I cannot say.

Q. Do you know of one that goes through the property?

A. One street goes north and south.

Q. And that has been used ever since you have known it?

A. That is pretty hard to answer.

Q. Try to remember, Mr. Farrar.

A. I cannot remember that just on the impulse.

Q. As a matter of fact, it must have been put there before 1875, and must have been there ever since that; can you remember anything about it?

A. In all recent years the street was always there.

Q. How far back?

A. I would not attempt to estimate. I would not estimate.

Q. Five, ten, twelve years, or what?

A. I would not estimate.

Q. You testified in your direct examination that you had put squatters off by notification, and that all along the green strip and plat # 1, indicating the Sweringen property; you do not mean you put any of them off Kennett street or Hall street?

A. This property is in a wild state up there and it is pretty hard to locate a street until it is built up and graded.

Q. Still you have known the street was there for a number of years?

A. I would not say how many years.

Q. But you have known it for a number of years?

A. For some time.

Q. And you do not mean you put any squatters off that

177 ground on that street?

A. I might have. I did not have a survey. Still, I know where the street is.

COURT: What street?

Mr. ALLEN: He is referring to the strip (here indicating).

WITNESS: Some street was there. I cannot remember how long there has been one there.

Q. Do you mean to say that you have been actually yourself paid all of the taxes, general and special, assessed against Mrs. Sweringen on her property in St. Louis since 1875?

A. Yes, sir.

Q. Did you pay any amount to the city of St. Louis to redeem the ninety feet that was sold for opening Kennett street?

A. I cannot answer that without seeing the bill and referring to the books.

Q. You have no recollection whatever about Kennett street or its opening, or the fact that Mrs. Sweringen was assessed benefits in that case?

A. No.

Q. Do you know that her property was sold out?

A. No.

Q. Did you ever know her property was sold out in 1871 and not redeemed until 1879?

A. No.

Q. Do you know it was redeemed in 1879?

A. I remember a circumstance that she had a lot of property sold out before we took charge of it, and we bought from Huntington Smith a lot of bills to redeem property.

Q. What do you mean by a lot of bills?

A. I do not know and cannot say about this unless I see the bills and refer to the books.

Q. Then if, upon referring to your books or other sources of knowledge satisfactory to you, you were to ascertain you had redeemed property in 1879, would you want to then say that you knew of no interference with the title or possession of that property since 1875?

A. I know of none now.

178 Q. Have you any memory about that?

A. No.

Q. Will you make such an examination as will determine that matter, Mr. Farrar?

A. Yes; I will if you pay me. It will take some time.

Q. Do you know where the river front was in 1875?

Mr. FARRAR: Can you indicate by that plat or any plat?

A. I would not attempt to do it. It was lying east of 2nd street. I remember walking down.

Q. You recollect the fact?

A. Yes, sir.

Q. I will ask if anybody, then—if any one has been in possession of any part of that property between the west limit of the green and the center of city block 308 and extending ninety feet wide clear down to the present front of the Mississippi river.

A. I don't know.

Q. You do not know?

A. No; Mr. Liebke had a saw-mill up in North St. Louis and had a lot of logs on it a few year- ago, and we notified him to leave and move the logs up, which *which* he did.

Q. How is that?

A. Mr. Liebke, who had a saw-mill, had a lot of logs on the property a few years ago, and we notified him to move them off, which he did.

Q. That is the only possession or change of title that you know of?

A. Yes, sir.

Mr. BELL:

Q. Where does this river front?

A. That is between the eastern street and the Wabash railroads; that is east, what you might term the levee, east of the C., B. & Q.

Mr. BELL: West of the C., B. & Q.?

A. These logs were all west of the C., B. & Q.

Q. Indicate as nearly as possible where they were.

A. From here to here.

Q. You indicate on the east of the track of the C., B. & Q. and 1st or Main street, as it is called?

A. Yes, sir.

179 Q. On the west city block 308 fronts on Main street. Now, do you mean he had his logs all the way from the river?

A. No.

COURT: Between the C., B. & Q. and 1st street?

A. Yes, sir.

Q. Indicate, as near as possible, where they were.

A. They were scattered all over.

Q. You mean the entire distance to Main street they covered?

A. The entire ground was not covered, but they were scattered.

Q. Where was Liebke's saw-mill? Do you know that?

A. That is there on Buchanan street from 1st and 2nd.

Q. And runs down Buchanan street to the river?

A. Yes, sir.

Q. You say the logs extended along or all over this property, more or less. Were — logs such as he uses in business to saw up and make lumber?

A. Yes, sir.

Q. And that continued, more or less, from 1st street clear through this tract to the C., B. & Q.?

A. Yes, sir.

Q. When was — that you first knew of that, Mr. Farrar?

A. Four or five years ago.

Q. Then you notified him?

A. Yes, sir.

Q. Have you any recollection of him having used it before that time?

A. Yes; there were logs there, but not as many. They were principally north.

Q. Can you tell how long before you have known he was on your property before four or five years ago?

A. No.

Q. You do not know?

A. No.

Redirect examination by E. P. JOHNSON, Esq.:

Q. He moved off when you notified him?

A. Yes, sir.

Q. How long had he been there?

A. A few months, I should judge.

Mr. ROBERT: How many squatters did you ever remove from the piece of land claimed by Mrs. Sweringen, the plaintiff in this case, running from the wharf line or river west?

180 WITNESS: What do you call the wharf line?

Mr. ROBERT: What is shown on plat # 2. It is indicated here by a line. This piece of the land between the east line of block 2544 on the river.

A. It would be impossible to say.

Q. Approximately.

A. I suppose half a dozen.

Q. Can you say definitely you ever removed one from that particular piece?

A. Yes, sir.

Q. When did you remove one?

A. I would say four years ago.

Q. At that time both the railroad company and Mr. Joy were in possession, were they not?

A. Yes. The squatters were down there, and we told them to move off.

Q. And, at the time you notified the squatters, you know the railroad and Mr. Joy were in possession?

A. Yes, sir.

Q. Do you recollect any other that you removed?

A. We did not have charge of the whole strip.

Q. I am limiting the inquiry to this piece described. Do you recall any other squatters you removed from that part?

A. No.

Mr. JOHNSON: Now, Mr. Farrar, do you know whether any of Mr. Liebke's logs were between the east line of block 2544 and the river?

A. I think not.

—. There is a matter I overlooked. Mr. Farrar, are you familiar with the values of property up in this neighborhood—the rental and otherwise?

A. I think so.

Q. Will you state to the court what the rental value of this piece of ground, which is about three hundred and forty or fifty feet, I believe it is, from the east line of block 2544 down to the Mississippi river—this ninety feet?

Mr. ALLEN: We object to the question on the general ground it is incompetent, irrelevant, and immaterial, and a further ground for reasons given before, and a further ground it does not fix the time.

COURT: Objection overruled.

181 To which ruling of the court the defendant then and there excepted.

Ans. I should say the property was worth six per cent. on seventy-five cents per square foot.

Q. Six per cent. on seventy-five cents per square foot?

A. Yes, sir.

Q. How much an acre?

Mr. ROBERT: That is a little over $30,000 an acre.

Q. The distance laid down on the plat is 346 feet by 90 feet. Can you give an estimate what that would be worth an acre monthly—the rental value per month?

A. $1,401.90, and taxes——

COURT: That is the annual rent?

A. The annual rent.

Mr. BELL: Divide it by twelve, so as to tell the monthly rent.

A. $116.82 per month.

Q. $116.82 per month?

A. Yes, sir.

Q. How much would it be for the past five years?

A. I think about the same.

Q. State separately what the rental value of property claimed by the C., B. & Q. would be. That includes the railroad right of way. Take fifty by ninety feet; what would be that, separate?

A. That would be worth at the same rate.

Mr. ROBERT: We do not occupy fifty feet.

Mr. JOHNSON: The plat is in evidence; it shows the right of way fifty feet wide.

COURT: Of course the reason given by Mr. Robert is good, if true.

Mr. BELL: Read it all the way to the river.

Answer by WITNESS: $16.87.

Mr. DRABELLE: We allege we occupy a part of the premises described in the petition in and by virtue of city ordinance.

Mr. BELL: That ordinance grants fifty feet.

182 Recross-examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. Do you know what Mr. Joy pays?

A. No; I do not recollect.

Q. Do you know anything about it?

A. No; I think I heard one time; I forgot what it is now.

Mr. ROBERT: Do you know of a single sale of a piece of property in that neighborhood at any such figure you have stated of your own knowledge, in the immediate neighborhood?

A. No, sir; I do not recollect. I just base my opinion on the value of the property.

Q. How do you arrive at that?

A. Seventy-five.

Q. How do you arrive at seventy-five cents; why is it not worth eighty cents?

A. That is my judgment.

Q. It is not based on any sales of the same kind of property in that neighborhood, is it?

A. No; from the general information I have.

Mr. ALLEN: You do not know of any sale, but simply express your opinion as to what it ought to be worth?

A. That is my opinion what it is worth.

Q. Don't you know that Governor Francis bought exactly the same sort of property just a few blocks north, on which railroads run, at five thousand dollars an acre, just above that—the same kind of property exactly; don't you recollect?

A. I do not recollect the figures, but they got a great bargain.

Q. Don't you know when Knapp, Stout Co. bought the piece near the stock yards they were considerably fooled and they only paid $5,000 an acre; do you know that sale?

A. I do not recollect.

Q. Don't you think those sales are a better test of value than your opinion?

A. Not always; a great many people sell cheaper than they should.

Q. In the case of the Eau Claire Lumber Company, a concern worth three millions, don't you think that is a better test of values than your opinion not based on sales?

A. You cannot always tell about sales.

183 Q. That was made we know of. They sold a piece of property extending from Hall to the river front, partially filled with a lumber yard, and the parties paid $5,000 an acre. Don't you think that is a better test what property is worth than yours, not based on any sale?

A. I do not believe it.

Mr. ROBERT: I told you it is true.

A. I do not believe it.

Q. I will state to you this as a hypothetical question: If anybody said they bought from the Eau Claire Lumber Co. some sort of property running from Hall street to the river, just a few blocks north, for five thousand dollars, is that not a better test of value of that sort of property?

A. I would say they had bad judgment.

Q. Then you think your opinion is a great deal better than the Eau Claire Lumber Co.?

A. Yes.

Q. You say they had better judgment?

A. They might have good reason for selling.

Q. Don't you think that sale is a better test of value than your opinion?

A. Not according to my idea.

Q. You think your judgment is better than theirs?

A. Yes, sir.

JOHN H. TERRY, being duly sworn on behalf of plaintiff, testified as follows:

Direct examination by E. P. JOHNSON, Esq.:

Q. State your name, please.

A. John H. Terry.

Q. Do you reside in this city?

A. Yes, sir.

Q. What is your business?

A. Real estate.

Q. How long have you been in the business?

A. Twenty years.

Q. Are you acquainted with the values of property in the neighborhood of Dock street between Dock and Buchanan streets, in this city?

A. Yes, sir.

Q. I will get you to look at this and state what is the
184 rental value of the property inclosed between the lines—the east line of block 2544 and the river.

A. The rental value is six per cent. on what it is worth.

Q. It is 346 feet by 90 feet, according to the plat. What — that amount to?

Mr. ALLEN: We object to the question as immaterial, incompetent, and irrelevant.

COURT: Objection overruled.

To which ruling of the court the defendants then and there excepted.

A. That would be 31,140 feet at—I value that property at 80 cents per foot; that would be $24,922. Six per cent. on that would be $1,495.32.

Q. You mean that much per year rental value?

A. Yes, sir.

Q. How much per month?

A. $124.60.

Q. Would that be the same value for the past five years or would you make a difference the last five years?

A. I do not think there is much difference.

Q. The strip you see marked Chicago, Burlington and Quincy, 50 by 90 feet, how much would that be separately?

Mr. ROBERT: We object on the ground it is not shown that the railroad company is in possession of any such strips, and as a matter of fact it is not.

Mr. JOHNSON: So much per square foot is a mere matter of arithmatic—simply a matter of arithmatic.

COURT: The testimony is per foot value.

Mr. ALLEN: He did not say square per foot—I mean square foot.

Mr. BELL: The other witness said 75 cents per square foot.

WITNESS: 80 cents per square foot.

Cross-examination by E. S. ROBERT, Esq.:

Q. Where is this property?

A. On the river front, between Dock and Buchanan streets.

Q. Have you known of any sales in the last five years?
185 A. I do, but I have not the papers with me. Mr. Greenwood and myself went over this, and he has the papers, but he is out of town at present.

Q. In that locality do you know of any sales, of your personal knowledge?

A. No; I do not; not on the river front. I know the property in Blackman's, and am purchasing it now.

Q. Near this?

A. Not very near. This is up on Broadway. I am familiar with that block on that account.

Q. There is a good deal of river front unoccupied, is there not?

A. Yes, sir.

Q. You do not find any tenants for it? Any such figures as that would be speculation?

A. I have my idea what it is worth.

Q. You think it is a speculative value rather than actual?

A. Property in that vicinity is in the hands of small owners, and a great many parts got into the hands of large owners, so it can be used. I am working on that now.

Q. This is about as dead property as is found in St. Louis, is it not?

A. In one sense yes, and another no. On account of it being owned by so many owners prevents handling. If it were in the hands of large owners it would be live property.

Q. Is it not a fact for almost south of the stock yards, which is the same property, there have been no sales since the St. Louis, Keokuk and Northwestern stopped buying five or six years ago?

A. I do not know of any great number of sales.

Q. After the Merchants' Terminal and the other railways stopped buying the market was flat?

A. The sales stopped.

Q. This value you give is an opinion not based on actual sales, is it not?

A. It is based on actual sales.

Q. Is it based on the sale of the Francis piece?

A. We had our memorandum from nine sales.

Q. Don't you know Governor Francis and his associates
186 bought a long strip just two blocks north of the same sort of property for less than five thousand dollars an acre?

A. It is below grade.

Q. Which of this is below grade?

A. It is not as bad. Occasionally it is below grade. It is in high water. The Francis piece is worse than this.

Q. Is not all this land low grade?

A. No.

Q. Will you name a single piece that has not been filled in, low grade?

A. That may be right. The ground along the river is higher than back of it. The water gets behind it. The land near it is not overflowed until high water.

Q. Of course this piece Mr. Johnson inquired about, which is below grade, is not troubled?

A. I do not think that is troubled by the water, except in extra high water.

Q. Is it below the water grade of the city?

A. That I do not know.

Q. When you said below grade you did not mean below city grades as established; you meant it was subject to overflow?

A. Yes, sir.

Q. Do you know the property Knapp-Stout sold, or rather that Knapp-Stout purchased?

A. Yes, sir.

Q. Is not that similar property?

A. Yes, sir.

Q. And in this same neighborhood?

A. Yes, sir.

Q. Their property is also back from the river on the front and their property is gradually being filled up?

A. Yes, sir.

Q. It was bought from the Eau Claire Lumber Co. for five thousand dollars?

A. Yes, sir.

Q. Don't you think that property better than this?

A. No doubt it is just as good.

Q. Their property is levied and this is not?

A. That is true.

Q. Do you think the fact that there is a levee makes any difference?

A. I think the levee makes it more accessible to use by
187 keeping out high water.

Q. Do you think Knapp-Stout's piece is in better condition for use than this here?

A. No; if not for the railway.

Q. Suppose the railroad was taken away, would not Knapp-Stout'- be better than this?

A. I do not see why.

Q. You do not think it would be better?

A. No.

Q. Then, in your opinion, the levee of Knapp-Stout's piece does not improve its value?

A. In high states of water the levee is a benefit, but ordinary stages it is not. There are years it never overflows at all.

Q. I will get at it this way: whether you think leveeing the property enhances its market value.

A. I think so, if the whole property was raised up in time of high water.

Q. Do you know of a single sale of river front property in that neighborhood at about five thousand dollars an acre?

A. I cannot call the date of the sale now, but I have been over them for this case, and I have not the memorandum with me and cannot give them. There is a sale to the Buck-Wright Stove Co.

Q. On the city river front?

A. It is near there.

Q. On the city river front property you do not recollect any, do you?

A. No; I do not.

Mr. ALLEN: How long have you known that property?

A. I have known that property for twenty years.

Mr. DRABELLE: Do you know what Joy is paying the city for that property?

A. No.

Mr. ALLEN: Didn't you have that in consideration in making this estimate?

A. No.

Q. You say you have known the river front up there for some twenty years?

A. Yes, sir.

Q. Do you know where the longitudinal dike is up there?

A. Yes.

Q. Do you remember when that was put in?

A. I do not remember the year.

188 Q. It has always been there since you have known it, has it not?

A. I think it has.

Q. Do you know where the old spur dike was put in—up about Destrehan street?

A. Yes; I know where it is.

Q. And the longitudinal dike is down below that?

A. Yes, sir.

Q. That extends down past this property?

A. Yes, sir.

Q. Do you know if the city put that in?

A. I do not know that as a fact.

Q. I- has been there ever since you have known it?

A. Yes, sir.

Q. You do not know just how long?

A. No, sir.

Q. Do you know the purpose of a longitudinal dike, Judge?

A. For the purpose of turning the water.

Q. Turning the water from the land?

A. Yes, sir.

Q. What effect does that have on space on ground where the water is turned?

A. If it is built high enough, it keeps water from coming in.

Q. One of the objects of longitudinal dikes is to carry deposits inside, so it will fill up?

A. Yes, sir.

Q. That is the way they make shore land and wharf land?

A. Yes, sir.

Q. You know that is the way in which the city does make shore land itself on the river front and wharf line, is it not? That is the purpose of a longitudinal dyke?

A. Yes, sir.

Mr. JOHNSON: We offer in evidence receipts containing statement of taxes for 1851, city block 308, 90 by 138 feet deep, bounded north by Tyler, east by the river, and south by Deane.

Mr. ALLEN: In whose name is that?

Mr. JOHNSON: This tax receipt is in the name of J. T. Sweringen.

Mr. ALLEN: We object to this as incompetent, irrelevant, and immaterial. It is not the property said to have been bought by plaintiff or any one for her, and it does not describe the property
189 in controversy.

COURT: It is in the name of the husband of the plaintiff.

Mr. JOHNSON: This is the husband of the plaintiff. It is 90 by 138 feet, in block 308. This is in 1851, according to the plat filed with the report of the sheriff of the sale. It exactly corresponds with the description of the sheriff's report, by which the sheriff's deed was made.

COURT: There is no dispute that this is the husband of plaintiff.

Mr. ROBERT: I think he testified to that, Mr. Barrett.

COURT: Objection overruled.

To which ruling of the court *to* defendants then and there duly excepted.

Mr. ROBERT: There is no objection to offer all at once.

Mr. ALLEN: I think they all should be offered separately, for the reason they are not all alike, and we may have some special objection to special tax bills.

Mr. ALLEN: As I understand it, we object to that on the ground it is incompetent, irrelevant, and immaterial, and tending to describe the property here in controversy. I think the general objection will raise any specific objection.

COURT: Do you object because it is not in the name of the plaintiff?

A. Mr. ALLEN: Yes, sir.

COURT: The tax receipts which cover the ground in question will be admitted if they are in the name of the plaintiff or her husband. I will take them all, subject to the objections, and you can raise points to them afterwards. Perhaps that is the easier way.

All objections were overruled; to which ruling defendants duly excepted.

Mr. JOHNSON: Tax receipts for 1851, 1852; the city for 1852; the city and county for 1853; city and county, 1855.

Mr. BELL: These were testified to by the agent this morn-
190 ing, and also Mr. Barrett.

COURT: I do not remember they went back as far as 1851.

Mr. JOHNSON: I will start over again.

He then read in evidence tax receipts, State and county, 1851; State and county, 1852; city, 1852 and 1853; State and county, 1853; State and county, 1854, two bills for that year; city, 1855; State and county, 1856; State and county, 1857; city, 1858; State and county, 1858; State and county, 1859; city, 1860; city, 1862; city, 1863; city, 1863; State and county, 1863; State and county, 1864; city, 1865; city, 1865; State and county, 1865; city, 1866; State and county, 1866; State and county and city, 1867, two of them; State, county, and city, 1868, one for 1869; State and county and city, 1870; which are as follows:

Received of J. T. Sweringen three $\frac{00}{100}$ dollars, being the amount of State, county, road, and school taxes for the year 1851, in *the* St. Louis county, on real estate, as below detailed.

Block.	Street or avenue.	Front.	Deep.	Whose addition.	North.	East.	South.	West.	Valuation.	Amount.	
308	River.	90	138	Part out of the city.	Tyler	River.	Dean.	City line	500	State tax..	1.00
										County " ..	1.25
										Add'l county.	.25
										School	.50
											$3.00

191 C. B., fo. 253.
St. Louis county, Dec. 15, 1851.

THOMAS R. AXTILL, *Collector.*

Received of J. T. Sweringen sixty-one $\frac{00}{100}$ dollars, being the amount of State, county, road, and school taxes for the year 1852, for St. Louis county, on real estate, as below detailed, including poll and personal property.

Block.	Street or avenue.	Front.	Deep.	Whose addition.	North.	East.	South.	West.	Valuation.	Amount.	
308	River.	90	138	...	Tyler..	River.	Dean..	City line	500	State tax.	$22.40
92	4th ..	37^6	89	..	Tarrar.	Alley.	Green.	4th ..	9,300	County " .	28.00
360	12th .	137^9	150	...	Marion	Dean.	Benton	12th ...	1,400	Add'l " .	5.60
										County .	
									11,200	School " .	11.20
											$67 20

JOHN SMITH,
By S. D. AXTELL,
Dept. Collector.

C. B., fo. 407.
St. Louis county, Dec. 9th, 1852.

M-. J. T. Sweringen to city of St. Louis, tax for 1852.

Block.	Street.	No. of street.	Front.	Depth.	No. of lot.	North.	East.	South.	West.	Amount. Dollars.	Cents.
308	Front ..	...	70	75	....	Tyler..	Front ..	Dean..	City limits ..	720	...
1 p'r ct.										7	20
$\frac{1}{20}$ "											36
										7	56

Rec'd payment Oct. 29th, 1852.

G. T. CHAMBERLAIN,
Col. Sixth Ward.

Mr. James T. Sweringen to city of St. Louis, tax for 1853.

Block.	Street or avenue.	Front.	Deep.	North.	East.	South.	West.	Value of lot.	Total valuation.	Amount of tax.	
308	1st..	90	75	Tyler est.	River.	Dean.	City limits.	900	900	1 per cent..	$9.00
										$\frac{1}{20}$, harbor..	.45
										Total...	$9.45

Rec'd payment, St. Louis, Oct. 15, 1853.

G. T. CHAMBERLAIN,
Collector of 6th Ward.

C. B., fo. 37.

192 Received of J. T. Sweringen one hundred seventy-seven $\frac{60}{100}$ dollars, being the amount of State, county, and school taxes for the year 1853, for St. Louis county, on real estate, as below detailed.

Block.	Street or avenue.	Front.	Deep.	Whose addition.	Lot.	Block.
21	Second	20	80			
308	River	90	138			
92	Fourth	376	89			
92	B'way	67	73			
360	Twelfth	1,379	150	N. St. Louis	289	1 & 3
295	Second	80	150	N. St. Louis	58	24
316	"	80	150		89	34

North.	East.	South.	West.	Valuation.	Amount.	
Ashley..	River to pt.	Lindell	Second	200	State tax.	$59.20
Tyler	River	Dean	City line	500	County "	88.80
Farrar	Alley	Green St.	4th	9,300	Add'l } ..	
Coxe	B'way	Self.	Alley	14,000	County }	
Marion alley	Dean	Benton St..	12th	1,400	School "	29.60
				1,900		
				1,800		$177.60
				29,600		3.00
						$174.60

St. Louis county, Dec. 15th, 1853.

JNO. BRADY SMITH,
By AXTELL, *Dept. Collector.*

76.

Received of J. T. Sweringen one hundred and eighty-nine $\frac{1}{100}$ dollars, being the amount of State, county, and school taxes for the year 1854, for St. Louis county, as below detailed.

Block.	Street or avenue.	Front.	Deep.	Whose addition.	Lot.	Block.
21	Second	20'	50'			
22	Third	67	75			
"	Fourth	37'	89			
308	First	90	150	N. St. Louis	33/35	1/2
357	Eleventh	80	75			
"	"	40	75			
360	12th St	100	150			

North.	East.	South.	West.	Valuation.	Amount.	
Ashley St...	River to point	Clark *et al.*	2nd St...	200	State tax.	$54.00
Coxe	3rd St.	Self	Alley	14,000	County "	108.00
Farrar	Alley	Green St...	4th	9,300	Add'n'l "	
Part out of	city			700	County "	
Spring St...	Self	Robinson	11th St...	950	School	27.00
Robinson...	Johnson..	Bower	"	450		
Alley	Dean	Benton Str.	12th St...	1,400		189.00
				27,000		

St. Louis county, Jan'y 9th, 1855.

JOHN BRADY SMITH, *Collector.*

Martha J. Sweringen's trust. to city of St. Louis, taxes for 1855.

(*Description.*)

Block.	Street.	Front.	Depth.	North.	East.	South.	West.	Val. of lot.	Improvement.	Total value.
308	1st	90	75	Tyler...	River.	Dean..	City line	900		900
1 per cent										$9.00
$\frac{1}{2}$ per cent										.45
Total										9.45

Paid.
St. Louis, Nov. 6, 1855.

H. GARP,
Collector of 6 *Ward.*

193 206. M. J. Sweringen's trustee.

Received of J. T. Sweringen, ag't, six $\frac{65}{100}$ dollars, being the amount of State, county, special, road, and school taxes for the year 1855, in St. Louis county, on real estate, as below detailed.

Block.	Street or avenue.	Front.	Deep.	Whose addition.	North.	East.	South.	West.	Valuation.	Amount.	
308	First.	90	to river.	N St. Louis.	Tyler	River.	Dean.	Austin.	700	State tax.	$1.40
										County "	2.80
										Special "	1.40
										Road "	.35
										School "	.70
											6.65
											4.90
											$11.55

Ent. C. B., fo. 226.
St. Louis county, Dec. 19th, 1855.

GEORGE SMIZER,
By AXTELL, *Dept. Collector.*

Ent. C. B., fo. 226.

229. Lessee of Sweringen.

Received of A. Lemon seven $\frac{60}{100}$ dollars, being the amount of State, county, road, special, and school taxes for the year 1856, in St. Louis county, on real estate, as below detailed, including poll and personal property.

Blk.	Street or avenue.	Front.	Deep.	Whose addition.	North.	East.	South.	West.	Valuation.	Amount.	
308	Main.	90	to river.	N. St. Louis.	Tyler	River.	Dean.	Austin St.	800	State tax...	$1.60
										County....	3.20
										Special	1.60
										Road	.40
										School.....	.80
											7.60
											4.00
											$11.60

Correct.
St. Louis county, Jan'y 6th, 1857.

GEORGE SMIZER,
By S. D. AXTELL,
Dept. Collector.

Received of M. J. Sweringen eight $\frac{40}{100}$ dollars, being the amount of State, county, special, road, and school taxes for the year 1857, in St. Louis
194 county, on real estate, as below detailed.

Block.	Street or avenue.	Front.	Deep.	Whose addition.	Lot.	Block.	Valuation.	Amount.	
308	1st street.	90	138	N. St. Louis.	30 to 32	..	900	State tax	1.80
								County "	3.60
								Special	1.80
								Road	.45
								School "	.90
									8.55
									9.30

C. B., fo. 106.
St. Louis county, Dec. 1st, 1857.

JAMES McDONOUGH,
By S. D. AXTELL,
Dept. Collector.

Mr. Isaac Sweringen to city of St. Louis, taxes for 1858.

(*Description.*)

Block.	Street or avenue.	Front.	Deep.	North.	East.	South.	West.	Valuation of lot.	Improvements.	Total value.
308	1st St.	90	138	Tyler.	1st St...	Dean...	City line..	3,600	... .	3,600
									1 per cent. ..	36
									$\frac{1}{2}$ per cent..	1.80
									Total	37.80

C. B., fo. 60.
St. Louis, October 23, 1857.
Received payment,

C. F. GLEESON,
Collector of 10th Ward,
By JAS. WALKER,
Deputy Co.

808.

Received of Andrew Lemmon, lessee of M. J. Sweringen, twelve $\frac{17}{100}$ dollars, being the amount of State, county, special, road, school, jury, and asylum taxes for the year 1858, in St. Louis county, on real estate, as below detailed.

City block.	Street or avenue.	Front.	Deep.	Lot.	North.	East.	South.	West.	Valuation.		Dollars.	Cts.
308 E.	Pro. N. 1st St.	90	138	33 to 35	Tyler.	River.	Dean.	Self *et al.*	1,000	State tax. ..	2	00
										County "	4	00
										Special "	4	00
										Road "		50
										School "	1	00
										Jury "		50
										Asylum		17
											12	17

185, C.
C. B., fo. 83.

195 St. Louis county, Jan'y 22d, 1859.

JAMES McDONOUGH,
By S. D. AXTELL,
Dept. Collector.

11216.

Received of M. J. Sweringen, Henry Overstoltz & Co., lessee-, nine $\frac{80}{100}$ dollars, being the amount of State, county, school, and asylum taxes for the year 1859, in St. Louis county, on real estate, as below detailed.

City block.	Street or avenue.	Front.	Deep.	Whose addition.	Lot.	Block.	Valuation.		Dolls.	Cts.
308 E.	N. Main St.	30	138	N. St. Louis	33	12	360	State tax, $\frac{1}{5}$...	2.16	
308 E.	Do.	30	138	"	34	12	360	County " $\frac{1}{2}$...	5.40	
308 E.	Do.	30	..	"	35	12	360	Special State....	1.08	
								School, $\frac{1}{10}$..	1.08	
							1,080	Asylum, $\frac{1}{10}$.....	.18	
									9.90	
									2.70	
									$12.60	

C.; C. B, fo. 160.
St. Louis county, Dec. 27, 1859.

JAS. McDONOUGH,
P'r GILPIN, *Dpty. Collector.*

M-. Martha J. Sweringen (Andrew Lemmon, less.) to city of St. Louis, tax for 1860.

Block.	Street or avenue.	Front.	Deep.	North.	East.	South.	West.	Total value.
East 308	First	90	120	Reis *et al.*	1st street	Dean	N. E. line	*Dollars. Cents.* Valuation of lot..... 27.00 Total value.. 27.00 General tax. 27 Harbor tax.. 1 35 Sewer tax... 2 70 Total taxes 31 05

C. B., fo. 18.
City assessor's office, St. Louis, Mo.
St. Louis, Aug. 15th, 1860.
Rec'd pay't,

D. H. MOONEY,
Dep. Collector of 10th Ward.

M. J. Sweringen—A. Lemmon, less.—to city of St. Louis, tax for 1862.

196 *Description.*

City block.	Street or avenue.	Front.	Depth.	Addition.	Lot.	North.	South.	East.	West.
E. 308	First ..	90	104	.....	33/35	Schmidt ...	Dean ..	First ..	Reis.

	Dollars.	Cents.
Valuation of real estate	1,260	.....
" " improvements	.....	.....
" " personal property	.....	.....
Total valuation	1,2 0	.....
General tax	12	60
Harbor tax	.....	.....
Sewer tax	.....	63
Poll tax	.....	.....
Amount of bill	13	23

C. B., fo. 206.
City assessor's office, St Louis, Mo.
St. Louis, 30th Aug., 1862.
Rec'd payment,

HENRY KNOWLES,
Collector of 10th Ward.

Martha I. Sweringen (Andrew Lemmon, less.) to city of St. Louis, taxes for 1863.

Description.					Boundaries.			
City block.	Street or avenue.	Front.	Deep.	Lot.	North.	East.	South.	West.
308 E.	First ..	90	104'	30/35	Fahner....	First St....	Dean	Reis.

		Dollars.	Cents.
	Valuation of real estate	1,260	00
	" " improvements	200	00
	" " personal property	.....	.....
$16.06			
1.17	Total valuation	1,460	00
$17.23	General tax	14	60
	Sewer tax	1	46
	Poll tax	.....	.....
	Amount of bill	16	06

C. B., fo. 302.
City assessor's office, St. Louis, Mo.
St. Louis, July 31st, 1863.
Rec'd payment,

HENRY KNOWLES,
Collector of 10th Ward.

Extended New Limits.

M. I. Sweringen—Lemmon, lessee—to city of St. Louis, tax for 1863.

Description.					Boundaries.			
City block.	Street or avenue.	Front.	Depth.	Lot.	North.	East.	South.	West.
308 E.	1st.	90	79	33/35	Fahner...	E. N. limits..	Dean ...	Austin.

		Dollars.	Cents.
	Valuation of real estate	.....	.....
	" " improvements	.....	.....
	" " personal property	.....	.....
$1.17			
16.06	Total valuation	270	00
$17.23	General tax	.....	90
	Sewer tax ..	.....	27
	Amount of bill	1	17

C. B., fo. 302.
City assessor's office, St. Louis, Mo.
197 St. Louis, July 31st, 1863.
Rec'd payment,

HENRY KNOWLES,
Collector of 10th Ward.

198.

Received of Henry Overstolz, lessee of M. I. Sweringen, three $\frac{30}{100}$ dollars, being the amount of State, county, and school taxes for the year 1863, in St. Louis county, on real estate, as below detailed, including poll and personal property.

City block.	Street or avenue.	Front.	Deep.	Whose addition.	Lot.	Block.	Valuation.		Dolls.	Cts.
308 E.	Main St.	30	120	N. St. Louis	33	12	150	State poll tax		
308 E.	" "	30	120	"	34	12	150	Mil't'y poll tax		
308 E.	" "	30	120	"	35	12	150	Military tax, $\frac{1}{2}$		90
								State tax, $\frac{22}{100}$	1	44
							450	County tax, $\frac{1}{4}$	1	13
								School tax, $\frac{7}{10}$		45
									3	92
								R. R.	2	25
							•		6	17

C. B., fo. 230.

137
450

6850
548

616.50

St. Louis county, Dec. 12, 1863.

WM. H. MAURICE, *Collector.*
J. HARRISON.

196.

Received of M. I. Sweringen, tr. (Henry Overstolz, lessee), four $\frac{40}{100}$ dollars, being the amount of State, county, and school taxes for the year 1864, in St. Louis county, on real estate, as below detailed, including polls and personal property.

City block.	Street or avenue.	Front.	Deep.	Whose addition.	Lot.	Block.	Valuation.		Dolls.	Cts.
308 E	Main	30	124	N. St. Louis	33	12	150	State military poll tax		
308 E.	"	30	124	"	34	12	150	State military tax, $\frac{2}{3}$ ..	1	80
308 E.	"	30	124	"	35	12	150	County tax, $\frac{2}{3}$	1	80
							---	School tax, $\frac{1}{5}$		90
							450		4	50
									2	25
									6	75

C. B., fo. 12.
St. Louis county, Dec. 30, 1864.

WM. H. MAURICE, *Collector,*
Per C. ANDEL.

198 *Extended New Limits.*

Martha J. Sweringen to the city of St. Louis, taxes for 1865.

Description.						Boundaries.			
City block.	Street.	Feet front.	Feet deep.	Lot Nos.		North.	East.	South.	West.
308 E.	1st ..	90	79	33–35	.....	Fahner.	Ex. N. limits.	Dean ...	Austin *et al.*

	Dollars.	Cents.
Valuation of real estate.....	360	00
Total valuation.....	360	00
General tax, ½ of 1 per cent.	1	20
Wharf & harbor tax, $\frac{1}{10}$ of 1 per cent.	...	36
Sewer tax, $\frac{1}{10}$ of 1 per cent.....	.....	36
Police tax, ½ of 1 per cent.....	.....	51
Amount of tax bill	$2	43

C. B., fo. 50, original.
City assessor's office, St. Louis, Mo.
St. Louis, July 29th, 1865.

J. ROSENBAUM,
Collector of the 10th Ward.

Martha J. Sweringen to the city of St. Louis, taxes for 1865.

Description.							Boundaries.			
City block.	Street.	Feet front.	Feet deep.	Lot Nos.			North.	East.	South.	West.
308 E.	First.	90	150	...	.....	..	Fahner..	1st St. ...	Dean....	Austin *et al.*

	Dollars.	Cents.
Valuation of real estate...	1,620	00
Total valuation.....	1,620	00
General tax, 1 per cent.....	16	20
Harbor & wharf tax, $\frac{1}{10}$ of 1 %.....	1	62
Sewer tax, $\frac{1}{10}$ of 1 per cent.	1	62
Police tax, $\frac{1}{10}$ of 1 per cent.	2	31
Amount of tax bill	21	75

C. B., fo. 56, original.
City assessor's office, St. Louis, Mo.
St. Louis, July 29th, 1865.
Received payment,

S. ROSENBAUM,
Collector of the 10th Ward.

Received of M. J. Sweringen—H'y Overstolz, lessee—five & $\frac{55}{100}$ dollars, being the amount of State, county, and school taxes for the year 1865, in St. Louis county, on real estate, as below detailed.

City block.	Street or avenue.	Front.	Deep.	Whose addition.	Block.	Lot.	Valuation.		
									Dolls. Cts.
308 E.	Main..	30	224^{10}	N. St. Louis.	12	33	120	State and military poll	
308 E.	" ..	30	224^{10}	Do.	12	34	120	tax.....	
308 E.	" .	30	224^{10}	Do.	12	35	120	State & military tax, $\frac{2}{5}$.	2 16
								County tax, $\frac{1}{5}$.....	1 20
							360	Bounty tax, $\frac{1}{5}$	1 20
								School tax, $\frac{1}{5}$...	72
									5 28

C. B., fo. 80.
199 St. Louis county, Dec. 15, 1865.

J. H. LIGHTNER, *Collector*,
By W. H. LYMAN.

Old Limits.

Martha J. Sweringen to the city of St. Louis, taxes for 1866.

City block.	Street.	Feet front.	Feet deep.	Lot Nos.	North.	East.	South.	West.
				Pts.				
E. 308	First.	90	150*a*	33–35	Fahner *et al*..	1st Str..	Dean..	Austin *et al.*

	Dollars.	Cents.
Valuation of real estate	1,800	00
" " improvements.....	.....	.....
" " personal property.....	.....	.....
Total valuation.....	$1,800	00
General tax, 1 per cent.....	18	00
Wharf & harbor tax, $\frac{1}{10}$ of 1 %.....	1	80
Sewer tax, $\frac{1}{20}$ of 1 per cent.....	0	90
Police tax, $\frac{1}{4}$ of 1 per cent.....	4	50
Amount of tax bill.....	25	20

Original.
Assessor's office of St. Louis, Missouri.
C. B., fo. 122.
St. Louis, July 31, 1866.
Received payment,

L. ROSENBAUM,
Collector of the 10 *Ward.*

New Limits.

Martha J. Sweringen to the city of St. Louis, taxes for 1866.

Description.					Boundaries.			
City block.	Street.	Feet front.	Feet deep.	Lot Nos.	North.	East.	South.	West.
E. 308	No front	90	79 av.	2nd 33-5	Schmidt...	Self...	Dean..	Austin *et al.*

	Dollars.	Cents.
Valuation of real estate.....	900	.....
Total valuation.....	$900	.....
General tax, ¾ of 1 per cent.	6	75
Harbor & wharf tax, 1/10 of 1 %.....	.....	90
Sewer tax, 1/20 of 1 per cent.....	.....	45
Police tax, ¼ of 1 per cent	2	25
Amount of tax bill.....	$10	35

Original.
Assessor's office of St. Louis, Missouri.
C. B., fo. 122.
St. Louis, July 31, 1866.
Received payment,

S. ROSENBAUM,
Collector of the 10th Ward.

City Book 8, bill 2981.

200 *State, County, City, and School Taxes for* 1868.

Received of Martha J. Sweringen—A. B. Barrett, ag't—seventeen hundred and eighty-eight 3/10 dollars, being the amount of State, county, and school taxes for the year 1868, in St. Louis county, on real estate, as below detailed, including polls and personal property.

City block.	Street or avenue.	Front.	Deep.	Addition or survey.	Block.	Lot.
21	2nd.....	2½ to a pt.	86	.....	.....	.....
92	Broadway.....	226	644	.....	.....	.....
92	Do.	67	70	.....	.....	.....
92	4th.....	376	89	.....	.....	.....
92	Alley	10	18	.....	.....	.....
308 E.	Main	30	224	N. St. Louis....	12	34
308 E.	Do.	30	224	Do.	12	35
319	Broadway.....	40	150	Do.	31	118 S. ½
350	11th.....	63/46[100]	150	Do.	66	367
835	Washingt. Ave...	25 4½	150	P. Lindell's est...	.....	1

North.	East.	South.	West.
Ashley St.	To a pt	Collins	2nd St.
Self.	Br'dw'y	Self.	Self.
Pendleton	Do.	Do.	Alley.
Farrar	Alley	Green St.	4th St.
Self.	Self.	Self.	Alley.

Specified valuation.	Designation of taxes.	Aggregate of assessed taxes.	Amount of taxes.	
			Dolls.	*Cts.*
610	Polls: No			
7,250	State revenue, .025; int., .025; total,			
21,760	.050 p. c.	62,750	313	75
222,750	Exempt from county, school, and			
200	city tax			
150	Subject to county, school, and city			
150	tax	62,750		
2,920	County taxes, 0.60 p. c.		376	50
2,520	School taxes, 0.70 p. c.		251	00
4,440	Special exemption for city			
Total... 62,750	City general, 1.00; police, 0.20 p. c.; harbor, 0.05; sewer, 0.10; total, 1.35 p. c.		847	125
	Lafayette Park taxes, 0.10 p. c			
	0.20 p. c.			
	Total		1,788	375

Block	21	17	385
"	92	206	625
"	92	620	16
"	92	648	375
"	92	5	70
"	308 E.	4	275
"	308 E.	4	275
"	319	8	322
"	835	126	54
	Total	$1,788	373

201

BENJ. CHARLES, *Collector*,
By H. W. LYNANE, *Deputy*.

St. Louis county, Dec. 21, 1860.

Received of Matilda J. Sweringen—Arthur B. Barrett, ag't—one thousand six hundred and thirty-seven $\frac{42}{100}$ dollars, being the amount of State, county, and school taxes for the year 1866, in St. Louis county, on real estate, as below detailed, including personal property.

City block.	Street or avenue.	Front.	Deep.	Block.	Lot.
21	2nd	20 to a pt.	86		
92	Broadway	226	644		
92	Do.	67	70		
92	4th	376	89		
96	Do.	40	90		
124	6th	176			
170	Green	226	76	N. St. Louis.	
92	Alley	10	76	N. St. Louis.	
308 E.	Main	30	18	N. St. Louis.	1233
308 E.	Do.	30	224″	"	13-24
308 E.	Do.	30	224″	Do.	12-35
308 N.	Broadway	1,065	224″		
308 N.	2nd	50	118″		S. ½
308 W.	Buchanan	534	128″	N. St. Louis.	
319	Broadway	36-40	150	N. St. Louis.	31-118
358	11th	10	150	Do.	66-367
936	Morgan	163	1,447		
938	Christy avenue	163	1,447		
944	Morgan	30	1,447	New Bill.	

North.	East.	South.	West.
Ashley st	To a pt.	Collins St.	2nd.
Self	Bdwy.	Self	Self.
Pendleton	Do.	Do.	Alley.
Farrars	All-y	Green St	4th.
Green st	4th	Moreland	Holmes.
Moody	6th	Block	Alley.
Green	Moore	Walker	Ganzhorn.
Sweringen		Krieger, lessee	Alley.
S. Buchanan	Self	Self	
Self	2nd	Oberfeld	
Buchanan		Self	Broadway.
New Bill.			Oberfield.
			Self
Alley	Schuchman	Morgan st.	24th.
Do.	Ward, lessee	Christy av	23rd
Do.		Morgan st.	McAu—.

Valuation.			Dolls.	Cts.
	610	State and military tax, $\frac{9}{10}$	922	23
	7,700	County tax, $\frac{4}{10}$	408	68
	23,100	School tax	306	51
	22,750			
	19,080		1,637	42
	2,530	Monohan		
	2,750	Watt		
	200	Newcome		
	120			
	120	305.28 Monohan.		
	120	40.48 Watt.		
		44.00		
	2,450	389.76		
202	500			
	530	Paid, fo. 148.		
	2,900			
	1,390			
	6,650			
	5,710			
	2,000			
Personal	1,260			
Total State	104,900			
	1,420			
		300		
Exempt from Co. tax	103,480			
	1,010			
	102,470			

St. Louis county, Jan. 12, 1867.

J. H. LIGHTNER, *Collector*,
Per GOULD.

City Book 8, bill 2908.

New limits of 12 ward.

State, County, City, and School Taxes for 1867.

Received of Martha J. Sweringen—Arthur J. Barret, ag't—ninety-eight $\frac{1}{100}$ dollars, being the amount of State, county, city, and school taxes for the year 1867, in St. Louis county, on real estate, as below detailed, including poll and personal property.

City block.	Street or avenue.	Front.	Deep.	Addition or survey.	Block.	Lot.
308 E.	Main	30	224^{10}	N. St. Louis	12	33
308 W.	Broadway	106^{5}	118^{4}			
308 W.	2nd	50	128^{4}			
308 W.	Buchanan	534	106^{5}			

North.	East.	South.	West.
Self	2nd	Self *et al*	Oberfel. [Broadway.][3]
Buchanan St	Self	Self *et al*	Broadway.
Buchanan St	Meyer, lessee	Self	Self.

Specified valuation.	Designation of taxes.	Aggregated assessed values.	Amount of taxes.	
203			*Dolls.*	*Cts.*
150	State revenue. ... 0.25 p. c., polls.			
2,450	State interest..... 0.40 p. c.			
500				
530	Total..... 0.65 p. c.....	3,630	23	95[1]
Total ... 3,630	Subject to county, school, & city tax.	3,630	.....	...
	County taxes, 0.50 p. c.....	.....	18	15
	School tax, 0.40 p. c.....	....	14	52
	Total city, 1.15 p. c.....	3,630	41	74[1]
	Total	.....	98	01

[[1] Word enclosed in brackets erased in copy.]

County auditor's office, St. Louis county, 1867.
C. B., fo. 216.

St. Louis county, Jan'y 4, 1868. E. S. ROWSE, *Collector.*

City Book 8, bill 2981, 6.

New limits of 12th ward.

State, County, City, and School Taxes for 1868.

Received of Martha J. Sweringen ninety-four $\frac{11}{100}$ dollars, being the amount of State, county, city, and school taxes for the year 1868, in St. Louis county, on real estate, as below detailed, including polls and personal property.

City block.	Street or avenue.	Front.	Deep.	Addition or survey.	Block.	Lot.
308 E.	Main.....	30	224[11]	N. St. Louis.	12	33
308 W.	Broadway	106[5]	118[4]	....	.....	.....
308 W.	2nd St.....	50	128[7]	[SEAL.]	.....	.....
308 W.	Buchanan.....	534	106[5]	....	.....	.....

North	East.	South.	West.
Buchanan	Self.....	Oberfel.....	Bro'w'y.
Self.....	2nd St.....	Do.	Oberfel.
Buchanan St.....	Self.....	Self.....	Self

Specified valuation.	Designation of taxes.	Aggregated assessed values.	Amount of taxes.	
204			*Dolls.*	*Cts.*
150	Revenue, 0.25; int., 0.25; total, 0.50			
2,450	p. c.....	3,630	18	15
500	Subject to county, school, & city tax.	3,630	.....	...
530	County taxes, 0.60 p. c.....	.....	21	78
Total .. 3,630	School taxes, 0.40 p. c.....	.....	14	52
	Harbor, 0.05; sewer, 0.10; total, 1.10			
	p. c.....	.....	39	93
	Block 308 E., 3.90.			
	Total	.....	94	38

County auditor's office, St. Louis, Mo.

Block 308 E.	3.90
" 308 W.	63.70
" 308 W.	13.00
" 308 W.	13.78
Total	94.38

St. Louis county, Dec. 21, 1868.

BENJ. CHARLES, *Collector*,
By W. H. LYMAN, *Deputy*.

City Book 16, bill 1588.

State, County, City, and School Taxes for 1869.

Received of Martha J. Sweringen two thousand and eighty-nine $\frac{125}{100}$ dollars, being the amount of State, county, city, and school taxes for the year 1869, in St. Louis county, on real estate, as below detailed, and on personal property.

City block.	Street or avenue.	Front.	Deep.	Addition or survey.	Block.	Lot.
21	2nd St.	$20\frac{2-2}{6}$	86			
92	Broadway	226	644			
92	Do.	67	70			
92	4th St.	376	89			
92	Alley	10	18			
[292]*	[Main St.]*	[80]*	[150]*	[N. St. Louis.]*	[27]*	[47]*
[292]*	[2nd St.]*	[80]*	[150]*	Do.	[27]*	[50]*
205						
308 E.	Main St.	30	224′′	Do.	12	34
308 W.	Buchanan St.	534	1,065	Do.	12	35
319	Broadway	40	150	N. St. Louis	31	118 S. $\frac{1}{2}$
358	11th St.	63/46[10]	150 $11\frac{1}{2}$	N. St. Louis	66	367
607	Broadway	19[6] $4\frac{1}{2}$	93			
835	Washington Ave.	25	150	P. Lindell's		1

North.	East.	South.	West.
Ashley St.	To a point	Collins	2nd St.
Self.	Broadway	Self.	Self.
Pendleton	Do.	Do.	Alley.
Farrar	Alley.	Green St.	4th St.
Self.	Self.	Self.	Alley.
8 New Bill			
Buchanan St.	Self.	Self.	Self & Plake.
Reber	Broadway	Harvey	7th St.

[* Words and figures enclosed in brackets erased in copy.]

Specified values.	Designation of taxes.	Aggregate of assessed value.	Amount of taxes.	
			Dolls.	*Cts.*
600	State revenue, 0.25 p. c.....	.....	.....	.....
6,130	" interest, 0.25 p. c.....	67,000	335	00
18,410				
26,880	Total... 0.50 p. c.....	73,550	[367]*	[75]*
200	Exempt from county, city, school			
[3,650]*	taxes.	300		
[2,900]*	Subject to county, city, and			
[150]*	school tax.....	73,250	300	15
150	County taxes, 0.45 p. c.....	66,700	[329]*	[625]*
530	School taxes, 0.40 p. c	.....	[293]*	[00]*
2,930	Special exemption for city.....	.....	266	80
2,520	City, general, police, harbor,			
1,460	sewer; total, 15 p. c	.....	1,098	75
4,690	Lafayette Park taxes, 0.10 p. c..	.....	1,000	50
Personal.. 2,350	Do. do. do. 0.20 p. c..	.....	.....	.....
			[2,089]*	[12*]*
73,550				
6,550	Total.....	.....	1,902	45
Total..... 67,000				

[* Figures enclosed in brackets erased in copy.]

206 County auditor's office, St. Louis county, Dec. 28, 1869.
Fo. 334.

M. M. HARRIS, *Collector*,
By J. C. MARQUIS, *Deputy*.

City Book 16, bill 1664c.

New limits of 12th ward.

State, County, City, and School Taxes for 1870.

Received of Martha J. Sweringen ninety-two $\frac{12}{100}$ dollars, being the amount of State, county, city, and school taxes for the year 1870, in St. Louis county, on real estate, as below detailed, and on personal property.

City block.	Street or avenue.	Front.	Deep.	Survey or addition.	Block.	Lot.
308 E.	Main.....	30	224^{10}	N. St. Louis...	12	33
308 W.	Broadway	76^{5}	118^{4}	.....	.....	.....
308 W.	Buchanan	53^{4}	106^{5}	.....	.....	.....

North.	East.	South.	West.
Buchanan St.....	Self..	Hart.....	Broadway.
Do.	Meyer, lessee.....	Self.....	Self & Plake.

Specified valuation.	Designation — taxes.	Aggregate of assessed value.	Amount of taxes.	
			Dolls.	*Cts.*
240	State revenue ..... 0.25 p. c.			
2,520	State interest..... ..... 0.25 p. c.			
530				
Total 3,290	Total ... . 0.50 p. c.	3,290	16	45
	Exempt from county, school, and city tax	.....	....	....
	Subject to county, school, and city tax .	3,290	.....	....
	County taxes, p. c. 0.40.....	....	13	16
	School tax, p. c. 0.40..... .. .	.....	13	16
	Special exemption for city	.....	....	....
	General city, police, harbor, sewer—total, 1.50 p. c.	....	49	35
	Lafayette Park taxes, 0.10 p. c.....	.. ..	.....	....
	" " " 0.20 p. c.....	.....	.....	....
	Total	.....	92	12
240	2520 2.80 .... $70.56			
280	240 " 6.72			
530	..... 14.84			
19200	92.12			
480				
1.7200				
530				
280				
42400				
1060				
148400				
C., block 400.				

207 St. Louis county, Dec. 20, 1870.

C. MAGUIRE, *Collector*,
By J. C. MARGUIS, *Deputy*.

Mr. ROBERT: We ask for the receipts from 1870 down. We ask that they all be produced. Mr. Farrar testified all were paid.

Mr. BELL: Let them offer them. We cannot be compelled to introduce evidence.

Mr. ROBERT: We ask them to produce them and submit them for our inspection.

Mr. BELL: Whether we offer them or not is our business.

Mr. ALLEN: We ask for their production.

Mr. BELL: There is the record.

COURT: I do not think I have any right to order them to produce them, but if you want them there is a way to get them.

Mr. ALLEN: I understand you refuse to produce them?

Mr. BELL: We are conducting this case according to our own notions. When we introduce testimony it is time enough to object.

Mr. ALLEN: I am not referring to the introduction of evidence; but as they are original papers, I ask whether counsel will produce them in order to lay the foundation of that evidence.

Mr. ROBERT: I will ask your honor to make an order for the tax receipts from 1870 down.

COURT: I have no authority to make the order at this stage of the proceeding.

Mr. ROBERT: I will ask leave to present a petition a little later, as will undoubtedly appear to compel them to produce them. If you insist in putting it in writing, I will have to do that.

Mr. ROBERT: We ask leave to prepare and present an order a little later.

No further evidence offered by the plaintiff at this stage.

Plaintiff rested; whereupon each of the defendants offered an instruction as follows:

208 In the Circuit Court, City of St. Louis.

MARTHA J. SWERINGEN, Plaintiff,
vs.
THE CITY OF ST. LOUIS ET AL., Def'ts.

The court declares the law to be that under the law and the evidence the plaintiff cannot recover.

Which instruction was refused by the court; to which ruling and action of the court in refusing said instruction the defendants then and there duly excepted at the time.

The defendants, to maintain the issues on their part, introduced the following evidence:

Mr. DRABELLE: The first evidence we offer to introduce is the survey 2402, the survey immediately north of Rocky branch.

COURT: What is the number of that survey?

A. 2042. We first show the chain of title of the survey immediately north of Rocky branch.

Mr. BELL: We object to that. What has that to do with this land; we are not suing for any land in this survey.

COURT: On what theory do you offer it, Mr. Drabelle?

A. On the theory that they have no title to this——

Mr. ROBERT: If you project the northern line it does not include this property in controversy. Our contention is it is not an accretion to their property at all, and for that reason we want to show that title to the survey just north of it.

COURT: Objection overruled.

Mr. DRABELLE: We have not thought it necessary to bring the books. I propose by reference to pages and books.

Mr. BELL: We cannot try the case this way.

Mr. DRABELLE: We first offer in evidence the patent from the United States to Rufus Easton, dated May 1st, 1826, recorded in volume 5, page 242, of the records of the General Land Office.

209 Withdrawn and offered page 133.

Mr. BELL: We want to see the documents.

Mr. ROBERT: We will offer all we want first, and then you may see the documents.

Mr. BELL: If you offer a document let us see it. That is the only way to try the case.

COURT: Bring on the books.

Mr. DRABELLE: We offer this in evidence first.

Mr. BELL: I would like to look at it.

COURT: From whom to whom is that?

Mr. DRABELLE: From Rufus Eastus and wife to Matthew Kerr.

Mr. BELL: We object to this.

Mr. DRABELLE: This is a deed made on the 13th day of July, in 1820, between Rufus Easton and wife, of the city of St. Louis, and Matthew Kerr, of the same place.

Mr. BELL: We object to this. Our objection is that it is not shown that Rufus Easton has any title to the farm, and therefore it is entirely irrelevant that he attempted to convey the farm to Matthew Kerr, and that farm does not touch the premises in controversy here in any manner.

Here the court asked for a statement of the defense in this case.

Mr. DRABELLE: We offer Book I, on *Book I* page 345, commencing on page- 345, 346, and 347.

Said deed was read, and is as follows:

This deed made this thirteenth day of July in the year of our Lord one thousand eight hundred and twenty, witnesseth: That Rufus Easton and Abial Easton of the town of St. Louis in the county of St. Louis and Territory of Missouri for and in consideration of four hundred sixty-four dollars to them in hand paid by Matthew Kerr of the same place the receipt whereof the said Rufus Easton and Abial Easton do hereby acknowledge, do grant, bargain and sell unto the said Matthew Kerr his heirs and assigns
210 forever all that certain piece or parcel of land situate lying and being near the town of St. Louis aforesaid being part of the Fountain farm so called and containing nine arpens, twenty-eight-hundre-ths of an arpen, and is known and described on a plat of said Fountain farm as lot number one and is bounded and described as follows, beginning on the southwest corner of lot number two on said farm or tract and runs thence north sixty-eight degrees east to the Mississippi river, thence along the Mississippi to the Rocky branch, thence along the Rocky branch to a point on said branch where a line commencing at a cedar post standing on the northwest corner of a tract or part of said farm containing twelve arpens and eighty-two-hundre-ths of an arpen and sold by said Rufus Easton to Victor Habb and running thence north sixty-eight degrees and shall intersect said Rocky branch thence south sixty-eight degrees west along the line of said Habb to the said cedar post, thence north twenty-one degrees west to the said southwest corner of lot number two as will appear by a plat of said lands on this deed. To have and to hold the above granted and described premises with the appurtenances unto the said Matthew Kerr, his heirs, and assigns, forever and for the consideration above men-

tioned the said Rufus Easton Abiel Easton and their heirs covenant with the said Matthew Kerr his heirs and assigns the title to the above granted and described premises to warrant and defend against the claims and demands of all persons whomsoever unto the said Matthew Kerr his heirs and assigns forever.

In witness whereof the said Rufus Easton and Abiel Easton do hereunto set their hands and seals the day and year first above written.

RUFUS EASTON. [SEAL.]
ABIEL EASTON. [SEAL.]

Signed, sealed, and delivered in the presence of—
DAVID G. BATES.
NATH'L SOLBURN.

211 TERRITORY OF MISSOURI, } ss:
County of St. Louis, }

Personally appeared before the undersigned, a justice of the peace in and for the county of St. Louis, on the twentieth day of July, in the year eighteen hundred and twenty, the within and above-named Rufus Easton and Abiel, his wife, and acknowledged that they sealed, delivered, and executed the foregoing conveyance as their voluntary act and deed for the purpose therein named; and the said Abiel Easton, being by me examined separately and apart from her said husband, doth make her free and voluntary acknowledgment that she is well acquainted with the contents of the said deed and executed the same free from the compulsion or undue influence of her said husband.

In testimony whereof I have hereunto set my hand and seal this twentieth day of July, 1820.

J. V. GARNIER, *J. P.* [SEAL.]

Know all men by these presents, that I Wilson P. Hunt of the county of St. Louis in the Territory of Missouri have and hold a mortgage upon the tract of land described in the within deed executed by Rufus Easton and his wife to me bearing date the second day of July, one thousand eight hundred and eighteen. And I also have obtained a judgment against the said Rufus Easton in the circuit court of the county of St. Louis aforesaid on the twentieth day of April, one thousand eight hundred and twenty for the sum of six thousand four hundred and sixty-two dollars and ten cents debt and costs.

Therefore for and in consideration that the sum of four hundred sixty-four dollars the consideration money mentioned in the within deed of conveyance has been paid to me by the within-named
212 Matthew Kerr in part satisfaction of the said mortgage and judgment above mentioned I do assign release and forever quitclaim unto the said Matthew Kerr all my right, title, claim interest and property in and to the tract of land described in the within deed of conveyance from the said Rufus Easton and wife

to the said Mathew Kerr. To have and to hold the said premises hereby granted with the appurtenances unto him the said Mathew Kerr, his heirs and assigns forever.

In witness whereof, I do hereunto set my hand and seal this twentieth day of July in the year one thousand eight hundred and twenty.

WILSON P. HUNT. [SEAL.]

Signed, sealed, and delivered in presence of—
RALPH GUILD.

COUNTY OF ST. LOUIS, *ss:*

Personally appeared before me, a justice of the peace of the county aforesaid, Wilson P. Hunt, who acknowledged the foregoing instrument of writing to be his act and deed for the purposes therein named.

Given under my hand and seal this 20th day of July, 1820.

J. V. GARNIER, *J. P.* [SEAL.]

213 (Here follows diagram marked p. 213.)

Recorded this 7th of August, 1820.

ARCHIBALD GAMBLE, *Clerk.*

STATE OF MISSOURI, } *ss:*
City of St. Louis, }

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by Rufus Easton and wife to Matthew Kerr, together with the acknowledgement and date of filing and recording thereof, as the same remains of record in my office in Book I, page 345.

In witness whereof I have hereunto set my hand and official seal this 3rd day of March, A. D. 1897.

[SEAL.] M. D. LEWIS, *Recorder.*

214 Mr. BELL: You offer the whole instrument?

Mr. DRABELLE: Yes.

Mr. DRABELLE: The next book is 12, page 570, Matthew Kerr and wife to Andrew Buchanan. This deed is dated September 4th, 1839.

Said deed was read and is as follows:

This indenture made this twenty-fourth day of September in the year eighteen hundred and thirty-nine between Matthew Kerr and Hannah S. his wife of the first part and Andrew Buchanan of the second part witnesseth: That the said parties of the first part in consideration of the sum of six thousand and twenty-three dollars and forty cents, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged do by these presents, grant, bargain, sell, and convey unto the said Buchanan a cer-

No 470
Surveyed by Z. W.
St Louis

Examin[d] Scale 10 chains to the inch

tain tract or parcel of land situate in the county of St. Louis on the waters of the Mississippi river being a part of the tract called the Fountain farm bounded and described as follows: Begin at a post set in the Belle Fountain road the northwest corner of the tract from which a red oak twelve inches in diameter bears south 52½ E. fifty-two and one-fourth links distant thence north sixty-eight and three-fourths east twenty-six chains and forty-six links along the boundary line on the southeast of the tract heretofore conveyed to Carsten and Anglerodt to the Mississippi river the northeast corner of the tract thence meandering down said river and bounded east by it south 9¼ nine and one-half degrees west three chains south eight and one-half west, seven chains and forty links to the Rocky branch so called thence up along the middle of said branch as it meanders to Hob's lower corner on said branch, thence south sixty-eight and three-fourths degrees west, along Hob's and Idlet's line ten chains and forty-six links to the southwest corner of this tract in the Bellefountaine road at a point four links westward from Idlet's high gate post, thence along the said road north twenty degrees ten minutes west seven chains eight one-
215 half links to the beginning containing seventeen acres and eight one-hundre-ths of an acre. Bounded on the north by Carstens and Anglerodt east by the Mississippi river south by the Rocky run and Hab and Idlet's line and west by the Bellefountaine road. To have and to hold the above-described premises together with all the privileges and appurtenances thereunto belonging unto him the said Buchanan and to his heirs and assigns forever, said tract containing twenty arpents and seventy-eight-thousandths of an arpent, and the said Kerr for himself his heirs executors and administrators hereby covenants and *and* agrees with the said Buchanan his representatives and assigns, that the said Kerr will and his heirs, executors and administrators shall forever warrant and defend the above-described premises against the lawful claims of all persons whatsoever now claiming or hereafter to claim the same either in law or in equity.

In testimony whereof the said parties have hereunto set their hands and seals on the day and year first above written.

MATTHEW KERR. [SEAL.]
HANNAH S. KERR. [SEAL.]

Signed, sealed, and delivered in presence of—
ELIHU H. SHEPARD.

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this twenty-seventh day of September, in the year of our Lord one thousand eight hundred and thirty-nine, before the undersigned, a justice of the peace within and for the county and State aforesaid, personally came Matthew Kerr and Hannah S. Kerr, who are both personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as having executed the same, and they severally

acknowledged the same to be their act and deed for the pur-
216 poses therein mentioned. She, the said Hannah S. Kerr, being by me first made acquainted with the contents thereof, acknowledged, on an examination separate and apart from her said husband, that she executed the said deed and relinquishes her dower in the real estate therein mentioned freely, voluntarily, and without the undue influence of her said husband.

Taken and certified the day and year aforesaid.

ELIHU H. SHEPARD, *Justice.*

Filed for record September 28th, 1839, and recorded October 5th, 1839.

JNO. RULAND, *Recorder.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by Matthew Kerr and wife to Andrew Buchanan, together with the acknowledgement and date of filing and recording thereof, as the same remains of record in my office in Book I 2, page 570.

In witness whereof I have hereunto set my hand and official seal this 3rd day of March, A. D. 1897.

[SEAL.] M. D. LEWIS, *Recorder.*

Mr. BELL: We object to this on the ground that it is not shown that it grants any title to the property described, and, further, it is not shown it encroaches on the property in this action; and, further, on the face of the deed that land does not interfere with the ground in this action, but lies north.

The COURT: The objection is overruled.

Mr. DRABELLE: The next book is C 3, page 147, from Andrew Buchanan to George Buchanan, the same land, dated Novem-
217 ber 7th, 1842, and filed June 26th, 1843.

Mr. BELL: We make the same objection.

COURT: Same ruling.

Said deed was read and is as follows:

This indenture made this seventh day of November, one thousand eight hundred and forty-two by Andrew Buchanan and Harriet P. his wife of the first part both of Louisville, Kentucky and George Buchanan of the second part witnesseth: That the said parties of the first part in consideration of one dollar to them paid and of love and affection on the part of the said Andrew to his said brother George have bargained and sold and given and do hereby give, grant, bargain, sell and convey to the said George a certain parcel of land in the State of Missouri situate a short distance above St. Louis which the said Andrew on the 24th day of September 1839 purchased from Matthew Kerr and which said Kerr and wife conveyed to him the said Andrew by deed recorded in St. Louis county on the 28th day of September 1839, and which said parcel of land is a part

of what was formerly called Fountain farm and is bounded as follows, to wit: Beginning at a post set in the Belle Fountain road the northwest corner of the tract from which a red oak twelve inches in diameter bears south 52½ east fifty-two and one-fourth links distant thence north sixty-eight and three-fourths east twenty-six — and forty-six links (46 links) along the boundary line on the southeast of the tract heretofore conveyed to Carstens and Anglerodt to the Mississippi river the northeast corner of the tract thence meandering down said river and bounded east by it south 9½° west three chains south 8½° W. seven chains forty links to the Rocky branch so called thence up along the middle of said branch as it meanders to Habs' lower corner on said branch thence south sixty-eight and three-fourths
68¾° west along Habs' and Idlet's line ten chains and forty-
218 six links to the southwest corner of this tract in the Belle Fountain road at a point four links westward from Idlet's high gate post thence along the said road north twenty degrees ten minutes west seven chains eight and one-half links to the beginning containing seventeen acres and eight one-hundredths of an acre.

To have and to hold the same to him, the said George, and his heirs and assigns forever. And the said parties of the first part covenant that they will forever warrant and defend the title of said parcel of land to said George and his heirs and assigns against any and all claims derived by, through, or under them or either of them.

In testimony whereof the said parties have signed and sealed this deed on the day and year first written at said Louisville.

Test:

ANDREW BUCHANAN. [SEAL.]
H. P. BUCHANAN. [SEAL.]
GEO. BUCHANAN. [SEAL.]

COMMONWEALTH OF KENTUCKY, *Jefferson Circuit*, } *sct:*

November Term, 1842.

NOVEMBER 11TH, 1842.

Be it remembered that on this day Andrew Buchanan and Harriet, his wife, who are personally known to the said John I. Marshall, the sole judge of said court, to be the persons whose names are subscribed to the deed from them to George Buchanan now produced in court as having executed the same, come into open court and they severally acknowledged the same to be their act and deed for the purposes therein named; and she, the said Harriet P. Buchanan, having been first acquainted with the contents of the said deed and having had the same explained to her by the said judge, and on being examined by said judge separate and apart from her said husband, acknowledged that she executed the said deed, and then she relinquishes her dower to the lands and tenements therein mentioned voluntarily, freely, and without threats, persuasion, compulsion, or undue

influence of her said husband; whereupon it is ordered by
219 the court that a certificate of the foregoing facts is granted and direc'ed to be endorsed on said deed that the same may be recorded at St. Louis.

And the foregoing is a true copy from the record of said court.

In witness whereof I, Edmund P. Pope, clerk of said court, have hereunto set my hand and the seal of said court this 12th
[L. S.] day of November, 1842, and in the 51 years of the Commonwealth.

EDW'D P. POPE.

COMMONWEALTH OF KENTUCKY, *Jefferson Circuit Court,* } ss:

I, John I. Marshall, sole judge of the Jefferson circuit court, in the Commonwealth aforesaid, do hereby certify that Edmund P. Pope, whose attestation is above, is and was at the date aforesaid of the eleventh and twelfth days of November, 1842, the clerk of said court and keeper of its seal, and that his foregoing certificate is in due form and by the proper officer, and that full faith and credit should be given to the same; and I further certify that the foregoing deed was produced in court, and that the examination stated in said certificate was made in open court, as therein set forth.

In testimony whereof I have hereunto signed my name and affixed my seal this 15th day of November, 1842.

J. J. MARSHALL. [SEAL.]

Filed for record 14th and recorded 26th June, 1843.

HENRY P. WISE, *Recorder.*

STATE OF MISSOURI, *City of St. Louis,* } ss:

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument in writing executed by Andrew Buchanan and wife to George Buchanan, together with the acknowledgement and date of filing
220 and recording thereof, as the same remains of record in my office in Book C 3, page 147.

[SEAL.] In witness whereof I have hereunto set my hand and official seal this 3d day of March, A. D. 1897.

M. D. LEWIS, *Recorder.*

Mr. DRABELLE: This is the will of George Buchanan, Y 6, page 233.

Mr. BELL: We object to this.

COURT: Objection overruled.

Said will was read, and is as follows:

I, George Buchanan of the city and county of St. Louis and State of Missouri, do make and publish this my last will and testament hereby revoking all others. I give bequeath and devise all my property and estate of every kind, whether real personal or mixed and wheresoever situated unto my brother Andrew Buchanan of

the city of Louisville in the State of Kentucky and Edward Barry and Doctor William M. McPheeters of the said city of St. Louis.

To have and to hold the same unto them as joint tenants and not as tenants in common, and to their executors, administrators heirs and assigns and to the survivor of them and to his executors, administrators, heirs and assigns forever. In trust however for the following uses and purposes: That said trustees shall hold, sell or otherwise dispose of the same (if they deem best) or any part thereof and invest the surplus of the proceeds not required for any of the purposes hereinafter mentioned in their discretion until my youngest child shall arrive at the age of twenty-one years. And out of the proceeds of my estate my said trustees shall provide for the education of my minor children as well as for their support and maintenance and it is my wish that they shall be well educated even if it shall require the principal of the estate to accomplish it. And I hereby appoint my trustees aforesaid
221 guardians of my minor children requesting them to call to their aid in the matter of said guardianship Miss Julia Barry who is to be liberally compensated for her services. It is my wish and I accordingly hereby direct my said trustees to remit annually as long as either of them shall live unto my sisters Ann, Betty and Mary who reside in Ireland the sum of three hundred dollars to be equally divided between them so long as they shall live and after the death of any one of them then the said sum is to be remitted to and enjoyed by the survivors or survivor of them during their or her natural life. Next it is my wish and will that said Miss Julia Barry shall be protected from want and I therefore direct my said trustees in their discretion, if at any time they shall find her in need to provide for her having due regard to her situation and the condition of my estate. If the condition of my estate will justify it. I wish my said trustees to make in their discretion advances to my children, (excepting) Mrs. Sallie McPheeters who is already married as they shall severally arrive at age or marry not to exceed, two thousand dollars each, which advance may be either in money or property. When my youngest living child, shall attain the age of twenty-one years. I will and direct that my estate shall be divided among all my children. And as I have advanced already to my daughter Sallie McPheeters the purchase-money which I paid for one-ninth of the McConnell estate which I purchased of Robert McConnell and deeded to her with her mother's portion of said estate which is over and above my advances to my other children, and as I desire to do equally for all my children, I direct and require that in the division of my said estate among my said children, my said daughter Sallie McPheeters shall receive a portion which shall be less by the said one-ninth of the said McConnell estate so purchased for and conveyed to her, than the portions of my other children, that is to say, I direct that each of my other children
222 and the heirs of any of them that may have died leaving issue shall each receive of my said estate more than my said daughter (by an amount equal to the said one-ninth of the said McConnell estate). And then it is my will that the residue of my

estate shall be equally divided among all my children and the descendants of any of them who may have died leaving issue; that is to say; the descendants of each or any of my children who may have died leaving issue, shall represent and take *per stirpes* the share that would have gone to such deceased child had he or she been alive, and in making this division regard must be had to any advances that may have been theretofore made to my said children so that they may all share equally in my estate. Moreover the share of my daughter Sally must be responsible for and make good anything I *owe* my executors may possibly have to pay on account of an obligation executed by me in the St. Louis probate court, as surety for James McPheeters to enable him to get control of his daughter's estate. As this bond was executed by me upon the request of my son-in-law Doct. McPheeters; I also request and direct that my brother James Buchanan shall not be pressed for any part of the debt due by him to me. I hereby appoint my said brother Andrew and said Edward Barry and the said Doctor William M. McPheeters executors of this my will; and I desire that they shall be required to give no security either as guardians or executors. I have unlimited confidence in them and am aware that I am imposing on them a burden which they would not accept for a stranger. I therefore enjoin it upon my heirs and devisees not to attempt in any event to subject them to loss. I also desire and will that any written statement that they may make and sign as to any fact touching my estate shall be taken as conclusive proof without requiring any further voucher therefore.

In testimony whereof I have hereto set my hand and affixed my seal this seventh day of February, A. D. eighteen hundred
223 and fifty-two.

GEO. BUCHANAN. [SEAL.]

Signed, sealed, and published as for his last will and testament by the above-named testator, with the presence of each of the undersigned, who, at his request, have hereto set our names as subscribing witnesses day and year last aforesaid.

In the date the word "twenty," also the word "January," were stricken out, and the word "February" was substituted in the place of the word January, before execution hereof.

TRUSTEN POLK.
S. GRATZ MOSES.
CHAS. H. ORR.

Codicil.

I, George Buchanan of St. Louis do hereby make this codicil to my last will which precedes it.

1st. Two of my sisters are now in Scotland and their residence may not be in Ireland and I wish that no difficulty or embarrassment may arise from the statement that they live in Ireland.

2nd. I direct that my slaves Ben and Woodson shall be free at my death; and if necessary to give them their freedom I direct that my executors shall duly emancipate them and if this cannot be done

in Missouri; I direct and desire that my executors shall send or take them at the charge of my estate to such State or sovereignty as will allow them to execute this devize of freedom to them which is made in consideration of highly meritorious and faithful service. And with these modification- I confirm and republish the foregoing as my will this seventh day of January, (1853) A. D. eighteen hundred and fifty-three.

GEO. BUCHANAN. [SEAL.]

The foregoing codicil was this day signed, sealed, and published by the before-mentioned testator, George Buchanan, with the presence of each of us, who, at his request, have hereto set our names as subscribing witnesses the day and year last aforesaid, to wit, 7th January, 1853.

224

GARNETT DUNCAN.
WM. BUCHANAN.
JAMES BUCHANAN.

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this twenty-first day of January, in the year of our Lord one thousand eight hundred and fifty-four, before me, Peter Ferguson, judge of probate of the county of St. Louis, personally appeared Trusten Polk, who, being by me duly sworn, on his oath saith: I was present and saw George Buchanan, the testator, subscribe his name to the preceeding instrument in writing, purporting to be his will, and hear- him publish and declare the same to be his last will and testament. I subscribed my name as a witness thereto, as did S. Gratz Moses and Charles H. Orr, in the presence of the testator, and at the time of so doing the said Buchanan was of sound and disposing mind, to the best of my knowledge and belief.

TRUSTEN POLK.

Sworn to and subscribed before me this 21st day of January, 1854.

PETER FERGUSON,
Judge of Probate.

And on this twenty-first day of January, in the year aforesaid, also appeared S. Gratz Moses, who, being by me duly sworn, on his oath saith: I was present and saw George Buchanan, the testator, subscribe his name to the instrument of writing purporting to be his last will and testament. I subscribed my name thereto as a witness in his presence, and heard him publish and declare the same to be his last will and testament, and at the time of so doing he, said Buchanan, was of sound and disposing mind, to the best of my knowledge and belief.

S. GRATZ MOSES.

225 Sworn to and subscribed before me this 21st day of January, 1854.

PETER FERGUSON.
Judge of Probate.

COUNTY OF ST. LOUIS, ss:

The State of Missouri to any judge, or justice of the peace, or mayor, or other chief magistrate of Louisiana, Greeting:

Know ye that, confiding in your prudence and fidelity, we have appointed you and by these presents do give unto you full power and authority to call before you, at a certain day and place by you for that purpose to be appointed, William Buchanan, James Buchanan, and Garrett Duncan, subscribing witnesses to the annexed instrument in writing purporting to be a codicil to the last will of George Buchanan, and then and there to examine them on oath or affirmation whether said George Buchanan signed the same as a codicil to his last will or whether some other person signed it by his direction, whether the said George was of sound mind, whether the said witnesses subscribed their names thereto in the presence of the testator, and reduce their attestations to writing, to be subscribed by them, and when you shall have so done you are to send the same before us, in the office of our judge of probate of our county of St. Louis, together with this writ, under your hand.

In testimony whereof we have caused the seal of our probate court for the county aforesaid to be hereto affixed.

Witness Peter Ferguson, judge of our said probate court, at office, in the county of St. Louis, in the State of Missouri, this [L. S.] twenty-first day of January, in the year of our Lord one thousand eight hundred and fifty-four.

PETER FERGUSON,
Judge of St. Louis Probate Court.

In the Probate Court of St. Louis, County of St. Louis.

THE STATE OF LOUISIANA, }
Parish of Orleans, City of New Orleans. }

226 The depositions of William Buchanan, taken the 10th day of February, A. D. 1854, before me, Charles V. Janti, a justice of the peace in and for the parish of Orleans, city of New Orleans, duly commissioned and sworn as such, at my office, No. 80 Common street, in the city of New Orleans, in the parish of Orleans, in the State of Louisiana, in pursuance and by virtue of a commission from the court of probate for the county of St. Louis, State of Missouri, hereto annexed, dated the 21st day of January, A. D. 1854, with the will and codicil of George Buchanan, also attached hereto and which is herewith returned.

Said William Buchanan, the deponent, who is known to me and who is a resident of New Orleans, being by me first duly cautioned and solemnly sworn to depose the truth, the whole truth, and nothing

but the truth, and carefully examined, deposes and says that he has been well acquainted with George Buchanan, and that at his request deponent was present at the lodgings of said George Buchanan on the seventh day of January, 185–, when said George Buchanan signed, sealed, and published the codicil to his will which is attached to said commission and now before deponent, and that said George Buchanan signed and sealed said codicil in presence of deponant and of James Buchanan and Garrett Duncan, and that said George Buchanan then requested deponant and said James Buchanan and said Garnett Duncan to attest the same, and that deponent and James Buchanan and Garnett Duncan did then attest the same in presence of said George and also in presence of each other, and he recognizes his signature and also the signatures of the said other attesting witnesses to said attestations, and says they are all genuine; and further says that the said George Buchanan signed the said codicil with his own hand, and that said George was then of sound and disposing mind and memory and was in full possession of his faculties.

Further says not.

WM. BUCHANAN.

227 Sworn and subscribed before me this 10th day of February, 1854.

C. V. JOUTI,
Justice of the Peace for the Parish of Orleans.

Also the Depositions of James Buchanan, Taken at the Same Time and Place and under the Same Commission.

Said deponent, being of lawful age — being first duly sworn, deposes that said commission and the will and codicil by said George Buchanan are now before him, and that he has read and fully concurs in all the statement- made by William Buchanan in the foregoing depositions; that he saw said George Buchanan sign and seal codicil, and heard him publish and declare the same, with the will to which it was added, to — his last will and testament, all which was done in presence of this deponent, William Buchanan, and Garnett Duncan, and that deponant and William Buchanan and Garnett Duncan attested the said codicil at the request of said George and in the presence of said George and of each other on the seventh day of January, 1853, and that said George was then of sound and disposing mind, memory, and discretion; and further says not.

JAMES BUCHANAN.

Sworn to and subscribed before me this 10th day of February, 1854.

C. V. JOUTI,
Justice of the Peace.

Also the Depositions of Garnett Duncan, Taken at the Same Time and Place and under the Same Commission.

Said deponant, being of lawful age and duly sworn, says that George Buchanan, on the 7th of January, 1853, signed and sealed the codicil attached to said commission and published and declared the same, together with the will under which it was written, to be his last will and testament in presence of this deponent and James Buchanan and William Buchanan, all of whom attested the
228 said codicil at the request and in the presence of said George and also in the presence of each other, and that said George Buchanan, when he made, signed, and published said codicil, as aforesaid, — of sound and disposing mind and memory; that he had known said George intimately and been his counselor for about thirty years; that said George, on the day before said codicil was made, told him he wished to make a slight change in his will, and explained clearly the change he wished, with his reasons for so doing, and requested deponent to come to his lodgings, at a designated hour, on the next day, when he would have other witnesses present; that he accordingly met said George at the appointed time and spent a considerable time with him and had great deal of conversation with him, and that he is certain that said George was then in the full possession of his reason and memory and was of sound mind. Deponant wrote said codicil upon the dictation of said George and in his presence and added the scroll thereto. Said George then read it carefully and discussed it before it was executed. After said codicil was completed said George requested deponant to take and enclose it by mail to Mr. Barry, at St. Louis, to guard against any accident. Deponant complied with that request.

GARNETT DUNCAN.

Sworn to and subscribed before me this 10th day of February, 1854.

C. V. JOUTI,
Justice of the Peace for the Parish of Orleans.

THE STATE OF LOUISIANA, } ss:
Parish of Orleans, City of New Orleans, }

I, Charles V. Jouti, second justice of the peace for the parish of Orleans, duly elected, sworn, commissioned, and acting as such in and for the city of New Orleans, parish of Orleans, in the State of
229 Louisiana, do hereby certify that the foregoing depositions of William Buchanan, James Buchanan, and Garnett Duncan, citizens of New Orleans, were this day taken, sworn to, and subscribed before me, at my office, in said city, to be read in evidence *with* probate court for St. Louis county and State of Missouri in a certain matter therein depending touching the probate of a paper purporting to be the last will and testament and codicil of George Buchanan, deceased. Said depositions were taken under a commis-

sion from said court, which commission and the original paper purporting to be the will and codicil of George Buchanan are herewith returned. I further certify that said witnesses were first duly sworn before me, and that I there examined them carefully and reduced their examinations to writing, and that the same were severally signed by the several witnesses in my presence on this day.

In testimony whereof I have hereunto set my hand and seal, at New Orleans, on the tenth day of February, A. D. 1854.

C. V. JOUTI,
Justice of the Peace for the Parish of Orleans.

UNITED STATES OF AMERICA, }
State of Louisiana. }

By Paul O. Hebert, governor of the State of Louisiana.

These are to certify that C. V. Jouti, whose name is subscribed to the instrument of writing herein annexed, is and was at the time of subscribing his name to said instrument justice of the peace in and for the parish of Orleans, State aforesaid, and that his attestation to the same is made in due form of law and by the proper officer.

Given at Baton Rouge, under my hand and seal of the
[L. S.] State, the fifteenth day of February, one thousand eight hundred and fifty-four, and of the Independence of the United States the seventy-eight-.

P. O. HEBERT.

230 By the governor :
ANDREW F. CINON,
Secretary of State.

STATE OF MISSOURI, }
County of St. Louis, } ss:

Be it remembered that at the March term of the probate court for the county of St. Louis, on the sixth day of March, in the year one thousand eight hundred and fifty-four, the preceding instrument in writing, purporting to be the last will of George Buchanan and a codicil thereto, was produced in court, and on examination thereof and the testimony of Trusten Polk, S. Gratz Moses, William Buchanan, James Buchanan, and Garnett Duncan it is considered by said court that the same is duly proved to be the last will and testament of George Buchanan, deceased, and order the same to be certified and recorded.

In testimony whereof I hereto set my hand and affix the seal of the probate court of the county of Saint Louis, at office, in
[SEAL.] said county, the sixth day of March, in the year of our Lord one thousand eight hundred and fifty-four.

WILLIAM F. FERGUSON, *Clerk.*

STATE OF MISSOURI, }
County of St. Louis, } ss:

I, William F. Ferguson, clerk of the probate court of the county of St. Louis, in the State of Missouri, certify that the foregoing is a

true copy of the last will and testament of George Buchanan, deceased, and the probate thereof as the same now remains on file in office of the judge of probate of the county of St. Louis and as the same now remains of record in the office of the judge aforesaid in the record of letters and wills, Book E, page 195 and following.

[SEAL.] In testimony whereof I hereto set my hand and affix the seal of the probate court of the county of St. Louis,
231 at office, in said county, this twenty-first day of March, in the year of our Lord one thousand eight hundred and fifty-four.

WILLIAM F. FERGUSON, *Clerk.*

Filed and recorded March 29, 1854.

C. KEEMLE, *Recorder.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, the undersigned recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by George Buchanan, together with the probate thereof and date of filing and recording, as the same remains of record in my office in Book Y 6, page 233.

Witness my hand and official seal this third day of
[SEAL.] March, A. D. eighteen hundred and ninety-seven.

M. D. LEWIS, *Recorder.*

Mr. DRABELLE: We offer Book 189, page 212, Andrew Buchanan to George Buchanan's estate.

Said deed was read and is as follows:

To all whom it may concern:

I Andrew Buchanan of the city of Louisville in the State of Kentucky do hereby declare and make it known that I have never accepted the office of trustee or executor under the will of my brother George Buchanan late of the city of St. Louis, Missouri deceased. Nor have I ever entered upon or attempted to enter upon, assume or discharge any of the duties thereto belonging. And forasmuch as my residence in the State of Kentucky having disabled me from acting as one of the executors in said will named. The two other parties named therein conjointly with myself as executors and trustees to wit: William M. McPheeters and Edward Barry have received from the probate court of St. Louis county letters
232 testamentary with the will annexed of the estate of said George Buchanan and have acted as such executor both in respect to the real and personal estate of said George Buchanan.

Therefore in order to give to all concerned an authentic assurance of my having failed and refused to assume the said trusts or either of them. I do hereby declare that I have always hitherto renounced and do for all future time renounce the said trusts and each of them on me conferred or attempted to be conferred by the said will of George Buchanan deceased.

In witness whereof, I have hereunto set my hand and affixed my seal at the city of Louisville in the State of Kentucky this twenty-sixth day of March in the year eighteen hundred and fifty-seven.

ANDREW BUCHANAN. [SEAL.]

STATE OF KENTUCKY, }
County of Jefferson. }

Personally, on this twenty-sixth day of March, in the year eighteen hundred and fifty-seven, before me, the subscriber, clerk of the Jefferson county court for the county of Jefferson, Kentucky, which is a court of record having a seal, appeared Andrew Buchanan, who is to me personally known to be the same person who executed the foregoing instrument of writing, and acknowledged the same to be his act and deed.

In testimony whereof I have hereto set my hand and
[SEAL.] affixed the seal of said court, at office, in the city of Louisville, State of Kentucky, on the day and year above written.

CH. M. THRUSHAR, *Clk.*

Filed and recorded May 20th, 1851.

C. KUMLE, *Recorder.*

233 STATE MISSOURI, }
City of St. Louis, } *ss:*

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by Andrew Buchanan to George Buchanan estate, together with the acknowledgement and date of filing and recording thereof, as the same remains of record in my office in Book 189, page 212.

In witness whereof I hereunto set my hand and official
[SEAL.] seal this 3rd day of March, A. D. 1897.

M. D. LEWIS, *Recorder.*

Mr. DRABELLE: We next offer Book 192, page 471, lease from executors George Buchanan's estate to Letzig, Schrage, and Liebke, July 24, 1857.

Mr. BELLE: Same objection.

COURT: Same ruling.

Said lease was read and is as follows:

This deed of lease made and entered into in duplicates this twenty-fourth day of July eighteen hundred and fifty-seven between Edward Barry and William M. McPheeters executors of the estate of George Buchanan deceased of the first part and Christian E. Letzig, Carl H. Schrage and Christian Liebke parties of the second part, witnesseth: That the said parties of the first part in consideration of the covenants agreements and stipulations hereinafter mentioned as well as the yearly rent of four hundred and fifty ($450) dollars — cents to be paid in equal quarterly payments to wit, the sum of one hundred and twelve $\frac{50}{100}$ dollars on the first days of

February, May, August, and November (except the last quarter in said term which is only two months the sum of $75 is to be paid on the last day of December) in each year (the first
234 payment to be made on the first day of November 1857) do by these presents lease to the said parties of the second part for the term of nine year- and five months which said term begins on the first day of August, eighteen hundred and fifty-seven the following-described lot of land to wit, all the land east of Second street and extending from Second street to the river and from Anglerodt street on the north to the southern boundary of said George Buchanan's estate including the entire landing or river front of said George Buchanan's land excepting the streets and alleys which are or may hereafter be laid out through said premises all of said land being in what is known as George Buchanan's addition to the town of Bremen in St. Louis county and State of Missouri. This lease is made however subject to a temporary lease made by said parties of the first part with William Stein for the landing or river front which lease extends to the last of December 1857. The said parties of the second part for themselves and legal representatives hereby covenant with lessees and their heirs and legal representatives to pay said rent quarterly as aforesaid and also to pay all city, county and State taxes and all other taxes and demands of every description nature or kind whatever which may from time to time be legally required or demanded of said premises whether general tax or special tax every failure first to pay the said quarterly rent or any part thereof when it is respectively made payable or second to pay the said city, county and State taxes and all other taxes and demands or any part thereof (legally required or demanded of said premises within the year the same shall become due assessed to either said lessors their heirs or representatives or to said lessees or their representatives) or third to keep and perform any of the other covenants *arguments* or stipulations herein shall make and create a forfeiture of this lease and a termination of the time for which the above premises were let and all the estate hereby shall be absolutely void if so deter-
235 mined at any day or time however after such failure by notice in writing to that effect given by said lessors their heirs or legal representatives or assigns to said lessee- or their legal representatives which said notice may — served by pasting a copy or duplicate of the same up at one of the most public places on said premises or by delivering a copy or duplicate of such notice to said lessee- or their legal representatives.

This lease of said premises or any part thereof is not to be assign- under penalty of forfeiture without the written consent of said lessor- their heirs or legal representatives or assigns at the expiration of this lease the said premises to be delivered to said lessors their heirs or legal representatives or assigns. The said lessees and all who may hold under them hereby engage to pay double rent for every day they or any one else in their name shall hold on *the* the whole or any part of said premises after the expiration of this lease or after forfeiture thereof. The said lessors are under penalty of forfeiture

bound to keep said premises free from any disorderly, bawdy or gambling establishments, dram shop-, tippling shops, beer-houses or any nuisance whatsoever and in case — any forfeiture of this lease, the said lesseers their heirs or legal representatives or assigns may forthwith take possession of said premises with all the improvements thereon and shall be entitled to the same any custom, usage or law to the contrary notwithstanding all improvements erected on said premises by said lessors or their legal representatives or by any one who may claim under them are bound for the payment of each quarterly installments of rent and for the city and county and State taxes and all other taxes and demands as aforesaid and for any arrears of rent on taxes and in case of the punctual payment of the rent and taxes as herein specified the said lessees are hereby authorized to remove all such improvements (and no other) at the
236 expiration of this lease which they or any one who may claim under them may have erected on said premises during the said term.

In testimony whereof the parties hereto hereunto set their hands and seals to duplicate leases the day and year aforesaid.

EDW'D BARRY. [SEAL.]
CARL H. SCHRAGE. [SEAL.]
W. M. McPHEETERS. [SEAL.]
CH. LIEBKE. [SEAL.]
C. E. LETZIG. [SEAL.]

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this 25th day of July, A. D. 1857, before me, the undersigned, a notary public within and for said county, came Edward Barry and William M. McPheeters and Christian E. Letzig, Carl H. Schrage, and Christian Liebke, who are personally known to me to be the same persons whose names are subscribed to the foregoing lease, and they severally acknowledged the same to be their act and deed for the purposes therein mentioned.

In testimony whereof I have hereunto set my hand and
[SEAL.] official seal the date last above written.

DAVID S. BINGHAM,
Notary Public, St. Louis County, Missouri.

Filed and recorded July 25th, 1857.

C. KEEMLE, *Recorder.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by George Buchanan's executors to Christian
237 Liebke *et al.*, together with the acknowledgement and date of filing and recording thereof, as the same remains of record in my office in Book 192, page 471.

In witness whereof I have hereunto set my hand and
[SEAL.] official seal this third day of March, A. D. 1897.
M. D. LEWIS, *Recorder.*

We next offer Book 308, pages 522, 524, and 532—the Buchanan partition and plat.

Mr. BELL: Same objections.

Objection overruled.

Said partition and plat are as follows:

(Here follow maps marked pp. 237 & 238.)

239 We, the undersigned, Samuel Gatz, William G. Clarke, and Samuel C. Lawrence, commissioners appointed by virtue of a certain indenture entered into the twentieth day of January, eighteen hundred and sixty-six, by and between George Buchanan, Francis S. Buchanan, William M. McPheeters and Sallie B. McPheeters, his wife; Henry T. Crosby and Julia Crosby, his wife; Isaac W. Scott and Mary Scott, his wife, to make partition among the said parties of certain real estate described in said indenture, a copy of which is hereto annexed and made a part of this report, respectfully report that, in pursuance of the powers in us invested by the said indenture, we employed William A. Cozens, a competent surveyor, to lay off so much of said property into lots, blocks, streets, and alleys as has not heretofore been laid off, and to construct two plats of said real estate, which plats, marked A and B,— herewith filed as a part of this report. We then further proceeded to view, assess, and value the said premises and to set apart and divide the same as follows, to wit:

I. We set apart and assign to George Buchanan one lot of ground, of the value of two thousand dollars, in block numbered three on the plat of said subdivision herewith filed and marked A, on Ninth street, containing a front of eighty feet by a depth of one hundred and forty, bounded on the north by property of Mrs. Sallie B. McPheeters, on the east by Ninth street, on the south by property of Francis S. Buchanan, and on the west by alley.

II. We set apart, allot, and assign to Francis S. Buchanan one lot of ground, of the value of two thousand dollars, in block numbered three on the plat of said subdivision herewith filed and marked A, on Ninth street, containing a front of ninety feet by a depth of one hundred and forty feet, bounded on the north by property of George Buchanan, on the east by Ninth street, on the south by property of S. B. McPheeters, and on the west by alley.

240 III. We set apart, allot, and assign to Mrs. Sallie B. McPheeters one lot of ground, of the value of one thousand dollars, in block numbered three on the plat of said subdivision herewith filed and marked A, on Ninth street, containing a front of thirty-four feet by a depth of one hundred and forty feet, bounded on the north by Anglerodt street, on the east by Ninth street, on the south by property of George Buchanan, and on the west by alley.

IV. We then divided the remainder of said property into five

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portions of equal values, and numbered respectively one, two, three, four, and five, one of which was assigned by allotment to each of said parties, said allotments being drawn by us, the said commissioners, all of the said parties being present in person or by their duly authorized agents. Portion number one was drawn by Mrs. Sallie B. McPheeters, consisting of the following-described lots and parcels of land, to wit: One lot of ground in block numbered five on the plat of said subdivision herewith filed and marked A, on Broadway, containing a front of one hundred and eleven feet by a depth of one hundred and thirty-five feet, bounded on the north by property allotted to Francis S. Buchanan, on the east by alley, on the south by Buchanan street, and on the west by Broadway; one lot of ground in block numbered four on the plat of said subdivision herewith filed and marked "A," on Ninth street, containing a front of twenty-six — and five inches by a depth of one hundred and fifty feet, bounded on the north by property allotted to Julia Crosby, on the east by alley, on the south by Martin, and on the west by Ninth street; one lot of ground in block numbered three on the plat of said subdivision herewith filed and marked "A," on Ninth street, containing a front of twenty-five feet by a depth of one hundred and forty feet, bounded on the north by property allotted to
F. S. Buchanan, on the east by Ninth street, on the south by
241 property allotted to Mary B. Scott, and on the west by alley; one lot of ground in block numbered five on the plat of said subdivision herewith filed and marked "A," on Second street, containing a front of forty-five feet by a depth of one hundred and thirty-five feet, bounded on the north by Anglerodt street, on the east by Second street, on the south by property of W. C. Martin, and on the west by alley; one lot of ground in block numbered six on the plat of said subdivision herewith filed and marked A, on First street, containing a front of two hundred and ninety feet by a depth of one hundred and forty feet, bounded on the north by Angelrodt street, on the east by First street, on the south by Buchanan street, and on the west by alley; one lot of ground in block numbered fifteen on the plat of said subdivision herewith filed and marked "A," on second street, containing a front of fifty-five feet by a depth of one hundred and forty feet, bounded on the north by property allot-ed to George Buchanan, on the east by alley, on the south by Rocky Branch creek, on the west by Second street; one lot of ground in blocks numbered nine and ten on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of forty feet and running with that width to Mississippi river, bounded on the north by property allot-ed to Julia Crosby, east by Mississippi river, south by Buchanan street, and west by Blank street No. one; one lot of ground on block numbered thirteen on the plat of said subdivision herewith filed and marked "A," on Kennett street, containing a front of two hundred feet by a depth of one hundred and forty feet, bounded on the north by Buchanan street, on the east by alley, on the south by Rocky Branch creek, and on the west by Kennett street; one lot of ground in block- numbered eleven and twelve on the plat of said subdivision herewith filed and

marked "A," on Blank street No. one, containing a front of twenty feet and running with that width to the Mississippi river, bounded on the north by Buchanan street, on the east by Missis-
242 sippi river, on the south by property allot-ed to George Buchanan, and on the west by Blank street No. one; one lot of ground in block numbered thirteen on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of three hundred and nine feet by a depth of one hundred and forty feet, bounded on the north by property allot-ed to Julia Crosby, on the east by Blank street No. one, on the south by Rocky Branch creek, and on the west by alley; one lot of ground on Grand avenue on a plat of said subdivision herewith filed and marked "B," containing a front of seventy feet and six inches by a depth of three hundred and fourteen feet five and one-half inches, bounded on the north by property allot-ed to F. S. Buchanan, on the east by Grand avenue, on the south by property allot-ed to George Buchanan, and on the west by Obear avenue. Portion number two was drawn by Mrs. Julia Crosby, consisting of the following-described lots and parcels of ground, to wit: One lot of ground in block numbered five on the plat of said subdivision herewith filed and marked "A," on Broadway, containing a front of one hundred and twelve feet by a depth of one hundred and thirty-five feet, bounded on the north by Angelrodt street, on the east by alley, on the south by property allot-ed to Francis S. Buchanan, and on the west by Broadway; one lot of ground in block numbered four on the plat of said subdivision herewith filed and marked "A," on Ninth street, containing a front of twenty-six feet five inches by a depth of one hundred and fifty feet, bounded on the north by property allot-ed to F. S. Buchanan, on the east by alley, on the south by property allot-ed to S. B. McPheeters, and on the west by Ninth street; one lot of ground in block numbered five on the plat of said subdivision herewith filed and marked "A," on Second street, containing a front of eighty feet by a depth of one hundred and thirty-five feet, bounded on the north by W. C. Martin, on the east by Second street on the south by property allot-ed to F. S. Buchanan, and on the west by alley; one lot of ground in block numbered
243 eight on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of two hundred and ninety feet by a depth of one hundred and forty feet, bounded on the north by Angelrodt street, on the east by Blank street No. one, on the south by Buchanan street, and on the west by alley; one lot of ground in blocks numbered nine and ten on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of seventy feet and running with that width to the Mississippi river, bounded on the north by property allotted to F. S. Buchanan, on the east by Mississippi river, on the south by property allotted to S. B. McPheeters, and on the *south* by Blank street No. one; one lot of ground in block numbered thirteen on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of two hundred feet by a depth of one hundred and forty feet, bounded on the north

by Buchanan street, on the east by Blank street No. one, on the south by Rocky Branch creek, and on the west by alley; one lot of ground in blocks eleven and twelve on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of forty-seven feet and running with that width to the Mississippi river, bounded on the north by property allotted to F. S. Buchanan, on the east by Mississippi river, on the south by property allotted to Mary B. Scott, and on the west by Blank street No. one; one lot of ground in block numbered thirteen on the plat of said subdivision herewith filed and marked "A," on Kennett street, containing a front of one hundred and three feet by a depth of one hundred and forty feet, bounded on the north by property allot-ed to S. B. McPheeters, on the east by alley, on the south by Rocky Branch creek, and on the west by Kennett street; one lot of ground on Grand avenue as the same is laid down on the plat of said subdivision herewith filed and marked "B," containing a front of eighty-one feet by a depth of three hun-
244 dred and fourteen feet five and one-half inches, bounded on the north by Anna street, on the east by Grand avenue, on the south by property allot-ed to F. S. Buchanan, and on the west by Obear avenue. Portion number three was drawn by Francis S. Buchanan, consisting of the following-described lots and parcels of lands, to wit: One lot of ground in block numbered four on the plat of said subdivision herewith filed and marked "A," on Broadway, containing a front of fifty feet by a depth of one hundred and fifty feet, bounded on the north by property allot-ed to Mary B. Scott, on the east by Broadway, on the south by Buchanan street, and on the west by alley; one lot of ground in block numbered five on the plat of said subdivision herewith filed and marked "A," on Broadway, containing a front of sixty-seven feet by a depth of one hundred and thirty-five feet, bounded on the north by property allotted to Julia Crosby, on the east by alley, on the south by property allotted to S. B. McPheeters, and on the west by Broadway; one lot of ground in block numbered four on the plat of said subdivision herewith filed and marked "A," on Ninth street, containing twenty-six feet and five inches front by one hundred and fifty feet deep, bounded on the north by property allot-ed to Mary B. Scott, on the east by alley, on the south by property allot-ed to Julia Crosby, and on the west by Ninth street; one lot of ground in block numbered five on the plat of subdivision herewith filed and marked "A," on Second street, containing a front of sixty feet by a depth of one hundred and thirty-five feet, bounded on the north by property allot-ed to Julia Crosby, on the east by Second street, on the south by property allot-ed to George Buchanan, and on the west by alley; one lot of ground in block numbered eight on the plat of said subdivision herewith filed and marked "A," on Kennett street, containing a front of two hundred and ninety feet by a depth of one hundred and forty feet, bounded on the north by Anglerodt street, on the east by alley, on the south by Buchanan street, and on the west by Kennett street;
245 one lot of ground in block numbered fifteen on the plat of said subdivision herewith filed and marked "A," on Second street,

having a front of twenty-five feet by a depth of one hundred and forty feet, bounded on the north by Buchanan street, on the east by alley, on the south by property allot-ed to Mary B. Scott, and on the west by Second street; one lot of ground in block numbered fifteen on the plat of said subdivision herewith filed and marked A, on First street, containing a front of one hundred and ninety-one feet and five inches by a depth of one hundred and forty feet, bounded on the north by Buchanan street, on the east by First street, on the south by Rocky Branch creek; one lot of ground in block numbered ten on the plat of said subdivision herewith filed and marked "A," on Blank street number one, containing a front of seventy feet and running with that width to the Mississippi river, bounded on the north by property allot-ed to Mary B. Scott, on the east by Mississippi river, on the south by property allot-ed to Julia Crosby, on the west by Blank street No. one; one lot of ground in block numbered fifteen on the plat of said subdivision herewith filed and marked "A," on Second street, containing a front of twenty-five feet by a depth of one hundred and forty feet, bounded on the north by Buchanan street, east by alley, on the south by property allot-ed to Mary B. Scott, and on the west by Second street; one lot of ground in blocks numbered eleven and twelve on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of forty-five feet and running with that width to the Mississippi river, bounded on the north by property allot-ed to Mary B. Scott, on the east by Mississippi river, on the south by property allot-ed to Julia Crosby, and on the west by Blank street No. one; one lot of ground in block numbered fourteen on the plat of said subdivision herewith filed and marked "A," on Kennett street, containing a front of ninety feet by a depth of one hundred and forty feet, bounded on the north by property allot-ed to Mary B. Scott, on the east by Kennett street, on the south by Rocky Branch creek, on the west by alley; one lot of ground on Grand avenue as the same is laid down on the plat of said subdivision herewith filed and marked B, containing a front of seventy-three feet and six inches by a depth of three hundred and fourteen feet five and one-half inches, bounded on the north by property allot-ed to Julia Crosby, on the east by Grand avenue, on the south by property allot-ed to S. B. McPheeters, and on the west by Obear avenue. Portion number four was drawn by Mrs. Mary B. Scott, consisting of the following-described lots and parcels of lands, to wit: One lot of ground in block number four on the plat of said subdivision herewith filed and marked "A," on Broadway, containing a front of one hundred and twenty-two feet by a depth of one hundred and fifty feet, bounded on the north by property allot-ed to George Buchanan, on the east by Broadway, on the south by property allot-ed to F. S. Buchanan, and on the west by alley; one lot of ground in block numbered four on the plat of said subdivision herewith filed and marked "A," on Ninth street, containing a front of twenty-six feet and five inches by a depth of one hundred and fifty feet, bounded on the north by property allotted to George Buchanan, on the east by alley, on the south by property of F. S. Buchanan, and on the

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west by Ninth street; one lot of ground in block numbered three on the plat of said subdivision herewith filed and marked "A," on Ninth street, containing a front of thirty-one feet by a depth of one hundred and forty feet, bounded on the north by property allot-ed to S. B. McPheeters, on the east by Ninth street, on the south by Buchanan street, and on the west by alley; one lot of ground in block numbered three on
247 the plat of said subdivision herewith filed and marked "A," on Ninth street, containing a front of thirty feet by a depth of one hundred and forty feet, bounded on the north by property allot-ed to S. B. McPheeters, on the east by Ninth street, on the south by Buchanan street, and on the west by alley; one lot of ground in block number seven on the plat of said subdivision herewith filed and marked "A," on Kennett street, containing a front of two hundred and ninety feet by a depth of one hundred and forty feet, bounded on the north by Anglerodt street, on the east by Kennett street, on the south by Buchanan street, and on the west by alley; one lot of ground in block numbered fifteen in the plat of said subdivision herewith filed and marked "A," on Second street, containing a front of twenty-five feet by a depth of one hundred and forty feet, bounded on the north by property allot-ed to F. S. Buchanan, on the east by alley, on the south by property allot-ed to George Buchanan, and on the west by Second street; one lot of ground in blocks nine and ten on the plat of said subdivision now herewith filed and marked "A," on Blank street No. one, containing a front of seventy feet and running with that width to the Mississippi river, bounded on the north by property allot-ed to George Buchanan, on the east by the Mississippi river, on the south by property allot-ed to F. S. Buchanan, and on the west by Blank street No. one; one lot of ground in block numbered fourteen on the plat of said subdivision herewith filed and marked "A," on Kennett street, containing a front of two hundred feet by a depth of one hundred and forty feet, bounded on the north by Buchanan street, on the east by Kennett street, on the south by property allot-ed to F. S. Buchanan, and on the west by alley; one lot of ground in block- numbered eleven and twelve on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of forty-six feet and running with that width to the Mississippi river, bounded on the north by property allot-ed to George Buchanan, on the east by Mississippi river, on the south by property
248 allot-ed to F. S. Buchanan, and on the west by Blank street No. one; one lot of ground in block number twelve on the plat of said subdivision herewith filed and marked "A," on Blank street No. two, containing a front of one hundred and fifty-two feet by one hundred and forty feet deep, bounded on the north by property allot-ed to Julia Crosby, on the east by Blank street No. two, on the south by Mississippi river, and on the west by alley; one lot of ground on Grand avenue as the same is laid down on the plat of said subdivision herewith filed and marked "B," containing a front of fifty-eight feet by a depth of three hundred and fourteen feet five and one-half inches, bounded on the north by property allot-ed to

George Buchanan, east by Grand avenue, on the south by Guy street, and on the west by Obear avenue.

Portion number five was drawn by George Buchanan, consisting of the following-described lots and parcels of land, to wit: One lot of ground in block numbered four on the plat of said subdivision herewith filed and marked "A," on Broadway, containing a front of one hundred and eighteen feet by a depth of one hundred and fifty feet, bounded on the north by Angelrodt street, on the east by Broadway, on the south by property allot-ed to Mary B. Scott, and on the west by alley; one lot of ground in block number four on the plat of said subdivision herewith filed and marked "A," on Ninth street, containing a front of twenty-six feet and five inches by a depth of one hundred and fifty feet, bounded on the north by property of J. Roth, on the east by alley, on the south by property allot-ed to Mary B. Scott, and on the west by Ninth street; one lot of ground in block numbered five on the plat of said subdivision herewith filed and marked "A," on Second street, containing a front of sixty-five feet by a depth of one hundred and thirty-five feet, bounded on the north by property allot-ed to F. S. Buchanan, on the east by Second street, on the south by Buchanan street, and on the west by alley; one
249 lot of ground in block numbered seven on the plat of said subdivision herewith filed and marked "A," on First street, containing a front of two hundred and ninety feet by a depth of one hundred and forty feet, bounded on the north by Angelrodt street, on the east by alley, on the south by Buchanan street, and on the west by First street; one lot of ground in block numbered fifteen on the plat of said subdivision herewith filed and marked "A," on Second street, containing a front of twenty-five feet by a depth of one hundred and forty feet, bounded on the north by property allot-ed to S. B. McPheeters, on the east by alley, on the south by property allot-ed to S. B. McPheeters, and on the west by Second street; one lot of ground in block numbered ten on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of forty feet and running with that width to the Mississippi river, bounded on the north by Angelrodt street, on the east by Mississippi river, on the south by property allot-ed to Mary B. Scott, and on the west by Blank street No. one; one lot of ground in block numbered fourteen on the plat of said subdivision herewith filed and marked "A," on First street, containing a front of two hundred and ten feet and nine inches by a depth of one hundred and forty feet, bounded on the north by Buchanan street, on the east by alley, on the south by Rocky Branch creek, and on the west by First street; one lot of ground in blocks eleven and twelve on the plat of said subdivision herewith filed and marked "A," on Blank street No. one, containing a front of forty-two feet and running with that width to the Mississippi river, bounded on the north by property allot-ed to S. B. McPheeters, on the east by Mississippi river, on the south by property allot-ed to Mary B. Scott, and on the west by Blank street No. one; one lot of ground in block numbered twelve on

Blank street No. one on the plat of said subdivision herewith
250 filed and marked "A," containing a front of three hundred eighty-five feet by a depth of one hundred and forty feet, bounded on the north by property allot-ed to Julia Crosby, on the east by alley, on the south by Rock-Branch creek, and on the west by Blank street No. one; one lot of ground on Grand avenue, *as the same is laid down on the plat of* said subdivision herewith filed and marked "B," containing a front of seventy-four feet and nine inches by a depth of three hundred and fourteen feet five and one-half inches, bounded on the north by property allot-ed to S. B. McPheeters, on the east by Grand avenue, on the south by property allot-ed to Mary B. Scott, and on the west by Obear avenue; all of which is respectively submitted.

Given under our hands at the city and county of St. Louis, Missouri, this 19th day of April, A. D. 1886.

SAMUEL GATZ. [SEAL.]
S. C. LAWRENCE. [SEAL.]

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this 19th day of April, eighteen hundred and sixty-six, before me, the undersigned, a notary public within and for the county aforesaid, came Samuel Gatz and Samuel C. Lawrance, who are all personally known to me to be the same persons whose names are subscribed to the foregoing report of commissioners as parties thereto, and they severally acknowledged the same to be their act and deed for the purposes therein mentioned.

In testimony whereof I have hereunto set my hand and
[SEAL.] affixed my notarial seal, at my office, in St. Louis, the day and year last above written.

WILLIAM B. SWAN,
Notary Public, St. Louis Co., Mo.

251 Filed, recorded April 19th, 1866.

JULIUS CONRAD, *Recorder.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by William M. McPheeters *et al.*, by commissioners, in partition, together with the annexed plats, with the acknowledgement and date of filing and recording thereof, as the same remains of record in my office in Book 308, page 524.

In witness whereof I have hereunto set my hand and
[SEAL.] official seal this 3rd day of March, A. D. 1897.

M. D. LEWIS, *Recorder.*

Mr. BELL: In order to shorten matters, we will dispense with the production, and you will note our objections to all of them.

It was hereby agreed that it was not necessary to have the books.

Mr. DRABELLE: The last deed introduced was Book 308. Book 335 is the next we offer, page 300—conveyance by George Buchanan to P. H. French.

Which was read and is as follows:

(U. S. stamp, $3.00. G. B., 16, –666.)

This deed made and entered into this sixteenth day of June A. D. eighteen hundred and sixty-six by and between George Buchanan of the city and county of St. Louis, State of Missouri, party of the first part and Parker H. French of the same city, county and
252 State party of the second part witnesseth: That the said party of the first part for and in consideration of the sum of two thousand eight hundred and eighty-seven dollars and fifty cents, to him paid by the said party of the second part the receipt of which is hereby acknowledged does by these presents, grant, bargain and sell, convey and confirm unto the said party of the second part the following-described real estate, to wit: One lot in Blank street number one having three hundred and eighty-five (385) feet front, and one hundred and forty (140) feet in depth, and bounded on the north by property of Julius Crosby, on the east by an alley, on the south by Rocky Branch creek, and on the west by Blank street number one. To have and to hold the same together with all the right-, privileges and appurtenances to the same belonging unto the said party of the second part and to his heirs and assigns forever, the said George Buchanan hereby covenanting that his heirs executors and administrators shall and will warrant and defend the title to the premises unto the said party of the second part and to his heirs and assigns, forever, against the lawful claims and demands of all persons whomsoever.

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written.

GEORGE BUCHANAN. [SEAL.]

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this sixteenth day of June, A. D. eighteen hundred and sixty-six, before me, the undersigned, a notary public, duly commissioned and qualified, within and for the county and State aforesaid, came George Buchanan, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as a party thereto, and he
253 acknowledged the same to be his act and deed for the purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my notarial seal, at office, in the city of St. Louis, the day and
[SEAL.] year last above written.

E. W. TETTMANN,
Notary Public, St. Louis Co., Mo.

Filed, recorded Feb'y 20th, 1869.

JULIUS CONRAD, *Recorder.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by George Buchanan to Parker H. *French*, together with the acknowledgement and date of filing and recording thereof, as the same remains of record in my office in Book No. 335, page 300.

In witness whereof I have hereunto set my hand and [SEAL.] official seal this 3rd day of March, A. D. 1897.

M. D. LEWIS, *Recorder.*

Mr. ALLEN: Part of Buchanan's addition?

Mr. DRABELLE: Yes.

Then we offer Book 375, page 303. It is a conveyance from P. H. French to Benjamin W. Lewis, Jr.

Mr. ALLEN: What is the date of that?

A. It is dated June 13th, 1868.

Mr. BELL: Conveying the same property?

Mr. DRABELLE: Yes.

254 Which was read and is as follows:

(U. S. stamp, 50 cts. A. M., June 16, '69.)

This deed made and entered into this thirteenth day of June eighteen hundred and sixty-eight by and between, Alexander Mason, trustee of Jackson Farrar of the city and county of St. Louis and State of Missouri party of the first part and Benjamin M. Lewis, Jr., of the same place party of the second part witnesseth: Whereas, Parker H. French and Lucretia C. (his wife) of the city and county of St. Louis and State aforesaid by deed dated eight day of July eighteen hundred and sixty-seven recorded in the recorder's office of the county of St. Louis, State of Missouri, in Book 338, page 456, did convey to the said party of the first part as trustee the following-described real estate to wit: One lot in Blank street number one (1) in block twelve (12) in *which* is known as Buchanan's addition to the city of St. Louis a map of which is now on file in the recorder's office in said city having three hundred and eighty-five (385) feet front and a depth of one hundred and forty (140) feet, and bounded on the north by property of Julia Crosby on the east by the river front, on the south by Rocky branch and the river on the west by Blank street number one (1) which conveyance was in trust for the following purpose therein named to wit: Whereas the said Parker H. French has this day executed a certain promissory note for twelve hundred and forty-three dollars and thirty-five cents ($1,243.35) negotiable and payable without defalcation or discount four months after date, with interest at the rate of ten per cent. per annum to the order of Jackson Farrar and whereas it was provided in said deed that
255 if said promissory note shall be punctually paid at maturity and if the covenants aforesaid shall be well and truly kept and all amounts expended as aforesaid shall be refunded and repaid to said party of the third part or his assigns by said Parker H.

French or his legal representatives then the property hereinbefore conveyed shall be released at the cost of the said party, but if said promissory note shall be allowed to remain due and unpaid or in case payment of an amount expended as aforesaid should not be made &c., then this deed shall remain in full force and the said party hereto of the first part might proceed to sell the property hereinbefore described (being the same above mentioned) *as* any part thereof at public vendue to the highest bidder at the east door of the court-house for cash first giving five days' public notice of the time, terms and place of said sale, and of the property to be sold by advertisement in some newspaper printed in the city and county of St. Louis and upon such sale should execute and deliver a deed in fee-simple of the property sold to the purchaser or purchasers thereof. And whereas the said Parker H. French did fail to comply with the terms of said deed in this, to wit, that said promissory note and the interest thereon was not paid at maturity. Whereupon the said party of the first part being thereto required by the party of the third party named in said deed did on the twenty-seventh day of May eighteen hundred and sixty-eight at the east front door of the court-house in the city of St. Louis proceed to sell the said property at public vendue to the highest bidder for cash first having given five days' public notice of the time, terms and place of said sale and of the property to be sold by advertisement published in the Missouri Democrat a newspaper printed in the city of St. Louis, State of Missouri,
256 a copy of which with an affidavit of Daniel M. Hauser proving its publication is hereto annexed and made part of this deed at which time and place the said party of the second part was the highest bidder for said property at the price and sum of five hundred dollars and *and* the same was struck off to him accordingly.

Now therefore in consideration of the premises and of the said sum of five hundred dollars to him paid by the said party of the second part the receipt of which is acknowledged the said party of the first part hereby grant-, sell-, and convey- to the said party of the second part all the right, title and interest, estate, claim and demands of, in and to the above-described property which was vested in him by the above-executed deed. To have and to hold the same with all the rights, immunities, privileges and appurtenances thereunto belonging unto the said party of the second part and his heirs and assigns forever.

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year above written.

ALEX. MASON, *Trustee.* [SEAL.]

Executed in presence of—

—— ——.

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this sixteenth day of June, eighteen hundred and sixty-eight, before me, the undersigned, a notary pub-

lic within and for the county and State aforesaid, came Alexander Mason, trustee, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as par*ties* thereto, and he acknowledged the same to be his act and deed for the purposes therein mentioned.

In testimony whereof I hereunto set my hand and
[SEAL.] affix my notarial seal, in the city of St. Louis, the
257 day and year last aforesaid.

EMIL GESSLER,
Notary Public.

Trustee's Sale.

Whereas Parker H. French and Lucretia C. French, his wife, by their certain deed of trust dated July 8th, 1867 (eight- day of July, eighteen hundred and sixty-seven), and recorded in Book 338, page 456, in the office of the recorder of deeds for St. Louis county, Missouri, did convey to the undersigned, as trustee, all their right, title, and interest in and to the following-described property, lying and situate in the county of St. Louis, State of Missouri, to wit: one lot in Blank street No. 1 (1), block twelve (12), in what is known as Buchanan's addition to the city of St. Louis, a map of which is now on file in the recorder's office in said city, having three hundred and eighty-five (385) feet front and a depth — one hundred and forty (140) feet certain, and as much more beyond that depth as there may be, to the new city water line, and bounded on the north by property of Julia Crosby, on the east by the river front, on the south by Rocky branch and the river, on the west by Blank street No. one (1), which said conveyance was made in trust to secure the payment of a certain promissory note therein described; and whereas said note has become due and is unpaid: Now, therefore, in pursuance of the terms of said deed of trust, at the request of the legal holders, I will on Wednesday, the 27th day of May, 1868, between the hours of ten o'clock a. m. and four o'clock p. m. of that day, at the east front door of the court-house, in the city of St. Louis, Missouri, proceed to sell at public vendue, for cash, to the highest bidder, the above-described property, to satisfy said note and the interest accrued, together with the costs and expenses of executing this trust.

ALEX. MASON, *Trustee.*

STATE OF MISSOURI, }
County of St. Louis, } *ss:*

258 Personally appeared before me, the undersigned (a notary public within and for the county of St. Louis), Daniel M. Houser, who, being duly sworn, deposeth and saith that the annexed advertisement was published in the "Missouri Democrat" (printed within the said county and State, the newspaper of which he is one of the publishers), for six times, the first insertion being on the twenty-first day of May and the last insertion on the twenty-seventh day of May, 1868, as follows:

1st time, May 21, 1868.
2nd time, " 22, 1868.
3rd time, " 23, 1868.
4th time, " 25, 1868.
5th time, " 26, 1868.
6th time, " 27, 1868.
[SEAL.] D. M. HOUSER.

Printer's fee..... 9.25
Affidavit..... .50

$9.75

Sworn to and subscribed before me this sixth day of June, 1868.
WM. CROUCH,
Notary Public, St. Louis Co.

Filed and recorded February 5th, 1869.
JULIUS CONRAD, *Recorder.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by Parker H. French and wife *by to to* Benjamin W. Lewis, Jr., together with the acknowledgement and date of filing and recording thereof, as the same remains of record in my office in Book 375, page 303.

259 [SEAL.] In witness whereof I have hereunto set my hand and official seal this 3rd day of March, A. D. 1897.
M. D. LEWIS, *Recorder.*

We offer next Book 313, page 542—George Buchanan and all other heirs; partition deed to Julia Crosby, wife of Henry T. Crosby, a conveyance of all lots, marked # 2.

Mr. BELL: We object to that.

Objection overruled.

Said deed was read and is as follows:

(Not subject to stamp duty. W. Taussig.)

This deed made and entered into this tenth day of March, eighteen hundred and sixty-six by and between, George Buchanan, Francis S. Buchanan, William M. McPheeters and Sallie B. McPheeters, his wife and William M. McPheeters, trustee for Mary B. Scott acting under her written direction as witnesseth by her signature hereto and Isaac W. Scott and Mary B. Scott his wife parties of the first part and Julia Crosby wife of Henry T. Crosby and daughter of the late George Buchanan deceased, party of the second part, witnesseth: That whereas the parties have heretofore entered in an agreement bearing date the twentieth day of January, 1866, and recorded in the recorder's office for St. Louis county for the purpose of making partition among themselves as heirs of George Buchanan deceased of certain real estate therein described and belonging to the estate of the said George Buch-

anan, and whereas the commissioners named in said agreement acting in accordance with the terms thereof have
260 allot-ed to Mrs. Julia Crosby party of the second part as her portion of said real estate in the lots and parcels of land hereinafter described as will appear by reference to the report of said commissioners on file in the recorder's office for St. Louis county. Now therefore in pursuance of said agreement said parties of the first part for the purpose of making such partition of said real estate and in consideration of the premises and the sum of one dollar to *there* in hand paid by said party of the second part, the receipt of which is hereby acknowledged do by these presents, grant, bargain and sell, convey and confirm, unto the said party of the second part the following-described lots and parcels of land situated in the city and county of St. Louis and State of Missouri, as laid down and numbered on the plats accompanying the report of the commissioners for the partition of the estate of the late George Buchanan recorded in the recorder's office for the county of St. Louis, to wit: First. A lot of ground in block numbered five (5) as laid down on said plats having a front on Broadway of one hundred and twelve feet by a depth of one hundred and thirty-five feet to an alley. Bounded north by Anglerodt street, east by an alley, south by property allot-ed to Francis S. Buchanan and west by Broadway. Second. A lot of ground in block No. four (4) as laid down on said plats having a front of twenty-six feet and five inches on Ninth street by a depth of one hundred and fifty feet to an alley. Bounded north by property allot-ed to Francis S. Buchanan, east by an alley, south by property allot-ed to Mrs. Sallie B. McPheeters and west by Ninth street. Third. A lot of ground in block No. five (5) as laid down on said plats having a front of eighty feet on Second street by a depth of one hundred and thirty-five feet to an alley. Bounded on the north by Wm. C. Martin, east by Second street, south by property allot-ed to Francis S. Buchanan and west by an alley. Fourth. A lot of ground in block No. eight (8) as laid
261 down on said plats having a front of two hundred and ninety feet on Blank street No. one as designated on said plats by a depth of one hundred and forty feet to an alley. Bounded on the north by Anglerodt street, east by said Blank street No. one, south by Buchanan street and west by an alley. Fifth. A lot of ground in blocks Nos. nine and ten (9 & 10) as laid down on said plats fronting seventy feet on Blank street No. one by a depth of that width to the Mississippi river. Bounded on the north by property allot-ed to Francis S. Buchanan, east by the Mississippi river, south by property allot-ed to Mrs. Sallie B. McPheeters, and west by Blank street No. one. Sixth. A lot of ground in block No. thirteen (13) as laid down on said plat having a front of two hundred feet on Blank street No. one by a depth of one hundred and forty feet to an alley. Bounded north by Buchanan street, east by Blank street No. one, south by Rocky Branch creek on west by an alley. Seventh, a lot of ground in blocks Nos. eleven and twelve (11 & 12) as laid down on said plats having a front on Blank street No. one of fifty feet running back of that width to the Mississippi river, bounded on the north

by property allot-ed to Francis S. Buchanan, east by the Mississippi river, south by property allot-ed to Mary B. Scott and west by Blank street No. one. Eighth. A lot of ground in block No. thirteen (13) as laid down on said plats having a front on Kennett street of one hundred and three feet by a depth of one hundred and forty feet to an alley. Bounded north by property allot-ed to Mrs. Sallie B. McPheeters, east by an alley, south by Rocky Branch creek, and west by Kennett street. Ninth. A lot of ground having a front on Grand avenue of eighty-one feet by a depth of three hundred and fourteen feet and five and a half inches. Bounded on the north by Anna street, east by Grand avenue, south by property allot-ed to Francis S. Buchanan and west by Obear avenue. To have and to hold the same
262 with all the rights, immunities, privileges and appurtenances thereunto belonging unto the said party of the second part and her heirs and assigns forever, the said parties of the first part hereby covenanting, that they their heirs, executors and administrators, shall and will warrant and defend the title to the said premises unto the said party of the second part, her heirs and assigns forever, against the lawful claims and demands of all persons whomsoever.

In witness whereof the said parties of the first part have hereunto set their hands and seals the day and year first above written.

W. M. McPHEETERS. [SEAL.]
GEORGE BUCHANAN. [SEAL.]
FRANCIS S. BUCHANAN. [SEAL.]
W. M. McPHEETERS. [SEAL.]
Trustee of Mary B. Scott.
SALLIE B. McPHEETERS. [SEAL.]
J. W. SCOTT. [SEAL.]
MARY B. SCOTT. [SEAL.]

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this 7th day of May, eighteen hundred and sixty-six, before me, the undersigned, notary public within and for the county aforesaid, came George Buchanan, Francis S. Buchannan, William M. McPheeters, and Sallie B. McPheeters, his wife, and William M. McPheeters, acting as trustee for Mrs. Mary B. Scott, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and severally acknowledged the same to be their act and deed for the purposes therein mentioned; and the said Sallie B. McPheeters, having been by me first made acquainted with the contents of the foregoing deed, acknowledged, on an examination apart from her husband, that she executed the same and relinquished her right in the real estate therein mentioned freely and without compulsion or undue influence of her said husband.

263 [SEAL.] In testimony whereof I have hereunto set my hand and seal the day and year last above written.

SAMUEL C. LAWRENCE,
Notary Public, St. Louis Co., Mo.

STATE OF KENTUCKY, } ss:
Jefferson County, }

Be it remembered that on this 3rd day of May, 1866, before me, the undersigned clerk of the county court of the county and State aforesaid, which court is a court of record, came J. W. Scott and Mary B. Scott, his wife, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and severally acknowledged the same to be their act and deed for the purposes therein mentioned; and the said Mary B. Scott, having been by me first made acquainted with the contents of the foregoing deed, acknowledged on an examination apart from her husband that she executed the same and relinquished her right in the real estate therein mentioned freely and without compulsion or undue influence of her said husband.

[SEAL.] In testimony whereof I hereunto set my hand and official seal the day and date above written.

T. JACK,
Coun. Cl'k, Jeff. Co., St. Ky.

Filed and recorded May 9th, 1866.

JULIUS CONRAD, *Recorder.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, the undersigned recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by George Buchanan *et al.* to Julia Crosby, together with the acknowledgements and date of filing and recording thereof, as the same remains of record in my office, in Book 313, 542.

264 [SEAL.] In witness whereof I hereunto set my hand and official seal this 3rd day of March, A. D. 1897.

M. D. LEWIS, *Recorder.*

We offer Book 316, page 316, George Buchanan and all other heirs to Sallie B. McPheeters, wife of William M. McPheeters, of all lots marked # 1 on the plat of the subdivision.

Same objection. Overruled.

Said deed was read and is as follows:

(Not subject to stamp duty. W. Taussig, collector internal revenue.)

This deed made and entered into this tenth day of March, eighteen hundred and sixty-six by and between Henry T. Crosby and Julia Crosby his wife and William M. McPheeters trustee for Mary B. Scott acting under her written direction as witnessed by her signature hereto and Isaac W. Scott and Mary B. Scott his wife and George Buckhanan and Francis S. Buckhanan parties of the first

part and John Wickham party of the second part and Mrs. Sallie B. McPheeters party of the third part witnesseth; that whereas the parties hereto of the first and third part- have heretofore entered into an agreement bearing date the twentieth day of January 1866 and recorded in the recorder's office for St. Louis county for the purpose of making partition amongst themselves as heirs of George Buchanan deceased of certain real estate therein described and belonging to the estate of the said George Buchanan and whereas the commissioners named in said agreement acting in accordance with the terms thereof have allotted to Mrs. Sallie B. McPheeters party of the third part
265 as her portion of said real estate the lots and parcels of land hereinafter described as will appear by reference to the report of said commissioners on file in the recorder's office for St. Louis county. Now therefore in pursuance of said agreement said parties of the first part for the purpose of making such partition of said real estate and in consideration of the premises and the sum of one dollar to them in hand paid by said party of the third part the receipt of which is hereby acknowledged do by these presents, grant, bargain and sell, convey and confirm unto the said party of the second part, the following-described lots and parcels of land situated in the city and county of St. Louis, State of Missouri, as laid down and numbered on the plats of the estate of the late George Buchanan recorded in the recorder's office for the county of St. Louis by the commissioners for the partition of said estate, to wit: First a lot of ground in block No. five (5) as laid down on said plats having a front on Broadway of one hundred and eleven feet running back 135 feet to an alley. Bounded north by property allot-ed to F. S. Buchanan, east by an alley, south by Buchanan street, and west by Broadway. Second a lot of ground in block No. four (4) as laid down on said plats having a front on Ninth street of twenty-six feet and four inches by a depth of one hundred and fifty feet to an alley. Bounded north by property allot-ed to Julia Crosby, east by an alley, south by Martin and west by Ninth street. Third a lot of ground in block No. three (3) as laid down on said plats having a front on Ninth street of twenty-five feet by a depth of one hundred and forty feet to an alley. Bounded north by property allot-ed to F. S. Buchanan, east by Ninth street, south by property allot-ed to Mrs. Mary B. Scott and west by an alley. Fourth, a lot of ground in block No. (5) five as laid down on said plats having a front on Second street of forty-five feet by a depth of one hundred and thirty-five feet to an alley. Bounded north by Anglerodt street, east by Second street, south by Wm. C. Martin and west by an alley.
266 Fifth. A lot of ground in block No. 6 sixth as laid down on said plats having a front on First street of two hundred and ninety feet by a depth of one hundred and forty feet to an alley. Bounded north by Anglerodt street, east by First street, south by Buchanan street and west by an alley. Sixth. A lot of ground in block fifteen (15) as laid down on said plats having a front of fifty-five feet on Second street by a depth of one hundred and forty feet

to an alley. Bounded on the north by property allot-ed to George Buchanan, east by an alley, south by Rocky Branch creek and west by Second street. Seventh. A lot of ground in block No. (9–10) nine and ten as laid down on said plats having a front on Blank street No. one of forty feet by a *a* depth of that width running back to the Mississippi river, bounded north by property allot-ed to Julia Crosby, east by the Mississippi river, south by Buchanan street, and west by Blank street No. one. Eighth. A lot of ground in block No. (13) thirteen as laid down on said plats having a front of two hundred feet on Kennett street by a depth of one hundred and forty feet to an alley. Bounded north by Buchanan street, east by an alley, south by Rocky Branch creek, west by Kennett street. Ninth. A lot of ground in block Nos. (11–12) eleven and twelve fronting twenty feet on Blank street No. one as laid down on said plats and running back of that width to the Mississippi river, bounded north by Buchanan street, east by the Mississippi river, south by property allotted to George Buchanan and west by Blank street No. one. Tenth. A lot of ground in block No. thirteen (13) as laid down on said plats having a front of three hundred and nine feet on Blank street No. one by a depth of one hundred and forty feet to an alley, bounded north by property allot-ed to Julia Crosby east by Blank street No. one, south by Rocky Branch creek, and west by an alley. Eleventh. A lot of ground in block No. (3) three as laid down on said plats having a front of thirty-four feet on
267 Ninth street by a depth of one hundred and forty feet to an alley, bounded north by Anglerodt street, east by Ninth street, south by property allotted to George Buchanan, and west by an alley. Twelfth. A lot of ground fronting seventy feet six inches on Grand avenue by a depth of three hundred and fourteen 5 1/2/12 feet bounded north by property allot-ed to F. S. Buchanan, east by Grand avenue, south by property allot-ed to George Buchanan and west by Obear avenue. To have and to hold the same with all rights, immunities, privileges and appurtenances thereto belonging unto the said party of the second part his heirs and assigns forever. In trust nevertheless for the sole separate use, of the said Sallie B. McPheeters party of the third part, her heirs and assigns in fee-simple power, with full power in said trustee to convey in fee-simple, mortgage, lease or otherwise dispose of the whole or any part of said property to such person or persons and for such price or sums of money as she the said Sallie may at any time in writing signed and acknowledged or executed in presence of an attesting witness direct and appoint and in default of any such disposition or conveyance in fee during her life of the whole or any part of said premises then to convey the same or so much thereof as remains undisposed of to such person or persons and in such manner as she the said Sallie shall by any writing in the nature of a last will or testament direct and appoint, and in default of an- such disposition or appointment then to the heirs of the said Sallie B. McPheeters in fee-simple, and the said John Wickham party of the second part covenants faithfully to perform and fulfill the trust herein created.

In witness whereof the said parties have hereunto set their hands and seals the day and year first above written.

GEORGE BUCHANAN. [SEAL.]
FRANCES S. BUCHANAN. [SEAL.]
268 HENRY T. CR*SO*BY. [SEAL.]
JULIA CROSBY. [SEAL.]
I. W. SCOTT. [SEAL.]
MARY B. SCOTT. [SEAL.]
W. M. McPHEETERS, [SEAL.]
Trustee of Mary B. Scott.

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered that on this 7th day of May, eighteen hundred and sixty-six, before me, the undersigned notary public within and for the county aforesaid, came George Buchanan and Frances S. Buchanan and William M. McPheeters, trustee of Mary B. Scott, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and severally acknowledged the same to be their act and deed for the purposes therein mentioned.

In testimony whereof I have hereunto set my hand and [SEAL.] affixed my notarial seal, at office, the day and year last above written.

SAMUEL C. LAWRANCE,
Notary Public, St. Louis Co., Mo.

STATE OF TENNESSEE, } ss:
County of Hamilton, }

Personally appeared before me Henry T. Crosby, of Chattanooga, Tennessee, who acknowledged the foregoing to be his own, free, binding act and deed, and that his signature thereto is genuine.

In testimony whereof I have hereto set my hand and [SEAL.] affixed my notarial seal this 30th day of March, 1866.

S. N. CLIVINGER,
Notary Public.

269 STATE OF KENTUCKY, } ss:
Jefferson County, }

Be it remembered that on this 3rd day of May, 1866, before me, the undersigned, clerk of the county court and county and State aforesaid (which court is a court of record), came J. W. Scott and Mary B., his wife, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and severally acknowledged the same to be their act and deed for the purposes therein mentioned; and the said Mary B. Scott, having been by me first made acquainted with the contents of the foregoing deed, acknowledged on an examination apart from her husband that she executed the same and relinquished her right in the real estate therein mentioned freely and without compulsion or undue influence of her said husband.

In testimony whereof I have hereunto set my hand and
[SEAL.] official seal the *date* and date above written.

T. JACK,
Coun. Ct'k, Jeff. Co. Ct., Ky.

STATE OF MISSOURI, }
County of St. Louis, } ss:

Be it remembered that on this seventh day of May, eighteen hundred and sixty-six, before me, the undersigned, a notary public within and for said county, came Henry T. Crosby, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as party thereto, and he acknowledged the same to be his act and deed for the purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my notarial seal, at office, in the city of St. Louis, State aforesaid,
270 the day and year last above written.

[SEAL.] W. HERKEURATH,
Notary Public for St. Louis County, Mo.

UNITED STATES OF AMERICA, }
State of New York, } ss:

Be it remembered that on the twelfth day of April, in the year one thousand eight hundred and sixty-six, before me, Gordon L. Ford, a commissioner appointed within and for the State of New York aforesaid by the governor of the State of Missouri to take the acknowledgement of deeds and other writings and administer oaths and affirmations to be used and recorded in said State of Missouri, appeared Julia Crosby, who is personally known to me to be the individual described in and who executed the annexed instrument of writing, and acknowledged the same to be her act and deed for the purposes therein mentioned; and the said Julia Crosby, being by me first made acquainted with the contents of said deed, acknowledged, on an examination separate and apart from her husband, that she executed the same and relinquished her right in the real estate therein described freely and without compulsion or undue influence of her said husband.

[SEAL.] In testimony whereof I have hereunto subscribed my name and affixed my seal of office.

GORDON S. FORD,
Commissioner, &c., for Missouri.

Filed and recorded May 9th, 1866.

JULIUS CONRAD, *Recorder.*

STATE OF MISSOURI, }
City of St. Louis, } ss:

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of

writing executed by George Buckhanan and wife *et al.* to
271 Sallie B. McPheeter's trustee, together with the acknowledgement and date of filing and recording thereof, as the same remains of record in my office, in Book 316, page 316.

[SEAL.] In witness whereof I have hereunto set my hand and official seal this 3rd day of March, A. D. 1897.

M. D. LEWIS, *Recorder.*

This is all except Plat Book No. 3, page 39. I want to introduce Plat Book 3, page 39, of the recorder's office, St. Louis.

Objection as before. Overruled.

Said plat was exhibited and is as follows:

(Here follows map marked p. 272.)

273 C. F. LIEBKE, being duly sworn on behalf of defendants, testified as follows:

Direct examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. Please state your full name.

A. Christian F. Liebke.

Q. What is your business?

A. Mill and lumber business—saw-mill.

Q. Where are you in business?

A. In St. Louis. The office is on 2nd and Buchanan and the mill 2nd and Buchanan.

Q. How long have you been there?

A. Since 1857.

Mr. DRABELLE: Which side of Buchanan?

A. The office is on the northeast corner.

Q. Where is the mill?

A. That is to the north of Buchanan, between Buchanan and Angelrodt.

Q. Anglerodt, north of Buchanan?

A. Yes, sir.

Q. The saw-mill is on the north side?

A. Yes, sir.

COURT: The north side of Buchanan?

A. Yes, sir, and east of 2nd street.

Q. Now, I direct your attention to a lease which was recorded, and a copy of which was offered in evidence?

A. Yes, sir; I have a copy in my pocket.

Mr. ALLEN: Let me see it, please.

Mr. ALLEN: Book 192, page 471, which was introduced in evidence as being a lease from George Buchanan.

Q. Are you the same Christian Liebke mentioned?

A. Yes, sir.

COURT: From George Buchanan's estate.

Mr. ALLEN: Yes, sir; July 4th, 1857, is the date.

Q. That lease shows to be for nine years and five months?

A. That is right.

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

Q. State what you did under that lease.

A. I occupied the ground along that Buchanan estate.

Mr. JOHNSON: We object. I wish to call your honor's at-
274 tention, you will recollect that the plat of yesterday that we were looking at, to which this lease refers, leaves the river bank precisely where it was, exactly as the plat we read in evidence.

COURT: What is the purpose of this?

Mr. ALLEN: We expect to show by this witness he was in possession clear across this strips. We will show this property Mr. Liebke occupied was included between those two lines.

COURT: You are offering this lease for the purpose of showing he was in possession of this property?

Mr. DRABELLE: Yes.

COURT: Objection overruled.

Q. State what you did with reference to the ground beginning in 1857, and how long you continued to use it, and what use you made of it, and how far south you used it.

A. I used it for a log yard and lumber yard, and from Anglerodt to the southern line of Buchanan's estate.

Q. Where was that?

A. According to the plats we have got, that runs along with the meanderings of the Rocky branch.

Q. How long did that continue?

COURT: What was the northern boundary of this property where you used it for a log yard?

A. Anglerodt street.

Q. Where is Anglerodt street?

A. The street north of Buchanan.

Q. How long did you continue to use it? When you say log yard and lumber yard, what do you mean by that?

COURT: Down to Rocky branch?

A. Yes, sir; that lease was for nine years and five months; that took us some time to 1866.

Q. What did you do after that with reference to that ground?

A. We are still continuing to us*ing* the ground and paid rent for it.

Q. How long did that continue?

275 A. That continued up to the time there was a division of the property between the five different heirs.

Q. How is that?

A. That continued until the division of the Buchanan property among the five heirs.

Q. Can you name the heirs?

A. Yes, sir.

Q. Who were they?

A. Mrs. McPheeters——

Q. Do you remember her first name?

A. Sallie B. McPheeters; Mary B. Scott, Julia Crosby, and Frank and George Buchanan.

Q. Do you remember the fact of their making a partition and dividing the property?

A. I know they did.

Q. That was in what year? Can you tell with reference to the termination of the lease?

A. Two or three years; may be the next year following that.

Q. That is the year following the termination of your lease?

A. I think so.

Q. After that how did you hold the property, if at all?

A. Then I got it from the individual owners. I bought an undivided half of George Buchanan, and also bought for Mrs. McPheeters and Mrs. Crosby.

Q. You bought the interest of both of them?

A. Yes, sir.

Q. With reference to that which you did not buy, what did you do?

A. We used it.

Q. In what way?

A. The same way.

Q. You mean as tenant?

Mr. ALLEN: Yes.

WITNESS: Yes; I have made no changes. I have continued the same, only I paid to individuals.

Q. You say you used that continually; how far south?

A. The line of Buchanan's estate, as shown and as I understood it all the time, according to the plat.

Q. That extended how far south?

A. To Rocky branch.

Q. Rocky branch is the southern limit?

A. Yes, sir; after the division Frank and George Buchanan
276 had one large piece that run away down to Rocky branch, what is called Blank street, I presume, 110 feet west of the present right of way of the C., B. & Q. road. After the division of the property it was sold, I think, under a deed of trust.

Q. Can you indicate on that plat (showing witness plat of Buchanan subdivision) where that piece of property was?

—. This piece share #1.

Q. Who is #1?

A. That is McPheeters.

Q. The green is Geo. Buchanan's share #5?

A. Yes; that is right.

COURT: You had possession of share #5 up to the partition?

A. I will not be positive about that.

Q. With reference to share #1, I will ask you whether you continued to occupy Mrs. McPheeters' right of way and the rest of the property east of 2nd street and south of Anglerodt to the southern boundary. Mrs. McPheeters' extends to the north line of Dock street, originally to Buchanan?

A. I do not know anything about that line.

Q. As far as Mrs. McPheeters' share went you occupied?

A. Yes, sir.

Q. Did you pay rent to Mrs. McPheeters?
A. Yes, sir.
Q. How about Mrs. Crosby?
A. Same thing.
Q. That is share # 2?
A. Yes, sir; she had some more ground there. It took all in. The leases were all alike.
Q. And that was the case at the time of their amicable partition. When was that, about the termination of the lease?
A. After that. I will not be positive about # 5, whether we continued after or not.
Q. About share # 1?
A. That was continued after the partition. The partition did not give her that much. We continued keeping it after the par-
277 tition. She did not claim down here as far as she did then, so we would not occupy it all.
Q. Who did you get those leases from? I am talking in reference to your occupancy. Who were the leases from # 4? Mrs. Scott—did you have that under lease?
A. Yes, sir.
Q. # 5, George Buchanan's?
A. I had that up to the end of the lease. I will not say anything about that afterwards.
Q. Then Mrs. McPheeters, you had possession of that from 1857 up to 1866?
A. Yes, sir; I had it all the time. I have it now as far as it goes, as far as she has it.
Q. Up to the expiration of the lease now, what time have you been occupying it since, what time since 1866?
A. Now.
Q. Which have you got now?
A. Mrs. McPheeters now claims, I think, forty feet there south of this line, and afterwards, I think, we found only nineteen or twenty feet. That agreement, I believe, Mr. McPheeters made with Mr. Bent showed that.
Q. You are referring to the agreement of 1873?
A. Yes, sir; whatever she had up to 1873, as far as it goes.
Q. You mean lots 1, 5, 4, and 2?
A. I will not say about # 5; I think it was sold at the end of the lease. The others I had right along, right up to the partition.
COURT: When was the partition?
A. In 1876. Then we had gone up to the agreement instituted between McPheeters and Bent.
COURT: Do you know when that was?
A. I never knew anything about it, because I was only told about it.
COURT: Do you means lots 1 and 4?
A. I mean lots 1 and 4. I continued the lease with her for everything she had east of 2nd street. No boundaries were fixed and the same was with the Scott affair.
Q. You never fixed any boundaries on the south of that?

A. The lease is all that I know east of 2nd and south of Anglerodt.

278 Mr. ALLEN: I understand you to say you had possession of the Crosby share also after the partition?

A. Yes, sir.

Q. In what way, as lessor, owner, or what?

A. As I said before, I continued paying rent after the expiration of the lease for a certain length of time. I have forgotten the agent—Judson or Judlin. I remember I was to pay rent to them for Mrs. Crosby, and he afterwards sold part of that property to Duross and Olcott. I continued in possession of that ground and kept using it. They never ordered me off it. They never ordered any termination of any lease, and I think for some years I did not pay any rent.

Mr. ALLEN: Why?

A. Did not call for it. They did not call for any rent.

Q. And you subsequently bought the Crosby tract over to Rocky branch?

A. I bought it as far as the title went.

Q. Mr. Liebke, you say you went there in 1857?

A. Yes, sir.

Q. What business were you in before you went there?

A. I was in business down on 2nd and between Pine and Olive—the furniture business.

Q. Were you ever in the rafting business?

A. That is in the saw-mill business; if you go in the saw-mill business you go in the rafting business.

Q. In such business, did you have occasion to know the condition of the river bank from 1857 on?

A. I know I used to land rafts right here.

Q. Right where; where did you land rafts?

A. As far as the river front went. We had a right to land. That was called a regular place—that was an eddy.

Q. Where did you commence and where did you go in?

A. We commenced at Bissell's point and ran down somewhere down about Mound street, I should judge, because mills were scattered all along there. I believe the last mill about that time, I think it was about Brooklyn.

279 Q. Brooklyn street is some distance south, is it not?

A. Yes, sir.

Q. Dock street was situated how with reference to the bend?

A. I think it was the middle of the bend.

Q. About the centre of the bend?

A. Yes, sir.

Q. The bend extended from Bissell's point to somewhere along — street?

A. Yes, sir.

Q. Was it a deep bend or a shallow bend?

A. I do not think it was very deep.

Q. I do not mean deep water.

A. I understand. I do not think that was a deep bend.

Q. Where was the old shoe?

A. My recollection is when I first came there it was about, I think, east of Hall street. My recollection is we used to land some rafts tied to a post at the foot of Destrehan Street dock.

Q. Hall street was once known as Kennett street?

A. Yes, sir; I know logs were piled in there.

Q. Logs were piled in all over that territory?

A. Yes, sir.

Q. And lay there until you wanted them?

A. Yes, sir; we would bring down large rafts, and the ground was covered with rafts from Bisselle point down. I think there were thirteen or fourteen saw-mills there. Everybody was getting in a great many logs at certains seasons.

Q. Anybody could land there?

A. Yes, sir.

Q. Sometimes they would land rafts there without having sold them before night?

A. Yes, sir.

Mr. JOHNSON: No man had a right to land there.

We object.

COURT: Objection overruled.

—. Captain Liebke, as a matter of fact, in rafting with steamboats—by the way, you did rafting mostly with steamboats?

A. Yes; entirely.

280 Q. Later with towboats?

A. Yes, sir.

Q. In these days, rafting without steamboats, it is a very desirable thing to get in an eddy?

A. Yes, sir.

Q. On that account this eddy you speak of was in demand and in use for rafting?

A. Yes, sir.

Q. Between 1853 and the present time have you rented any steamboats? 1857, I mean, and the present time.

—. Why, yes.

Q. What has been the practice in that regard—did the steamboats and barges land there, from that time to now, along that shore in front of this property?

A. Yes, sir.

Q. And has been continuous since?

A. Yes, sir.

COURT: They have been landing there for how long?

A. Since 1857.

Q. Captain Liebke, do you know of a spur dyke up about Destrahan street?

A. Yes, sir.

Q. Explain what that is, who put it there, and tell what it is.

A. That dyke was built out in the river.

Q. By whom?

A. I presume by the city. I remember we got permission from

the city to put check-posts on the end of the dike when they went through?

Q. What do you mean by check-posts?

A. They are put in the ground to hold rafts and steamboats.

Q. What is a dike of that kind, such as is there, made of?

A. It is made of rock; made to run out in the river to fill up.

Q. What is the use or purpose of the dike?

A. I presume the purpose was to establish a share for the wharf and to cause slack-water and fill the ground underneath.

Q. That is the fact, is it not?

A. I suppose that is the purpose.

Q. Do you know anything about a longitudinal dike?

A. I do not know just when any longitudinal dike was put in. It seems it was put in——

281 Q. Would you say as early as 1868 or 1870?

A. I think it was. I had an idea even before that.

Q. Not later than that?

A. No.

Q. Where is the longitudinal dike—how does it run?

A. I think it commences at Bissell's point and runs—that runs—I know it runs down to North Market street.

Q. Past this point here in controversy?

A. Yes, sir.

Mr. DRABELLE: Get him to explain.

Mr. ALLEN: You mean a longitudinal dike, and particularly this longitudinal dike, runs in the direction of the river and not far from the shore. Is that it? It runs outside of the spur dike you speak of. The spur dike runs from the bank to the river, and the longitudinal dyke runs with the general current or trend of the river?

A. Yes, sir.

Q. What is the object of a longitudinal dike?

A. I presume it is done to establish certain land—to establish a wharf and fill it up behind.

Mr. BELL: I object. Object of a longitudinal dyke—I do not know what the object could have to do with it. Was that the fact? Did it make ground in front—did it make ground in front of the old shore?

COURT: The proper question: What was the effect of that?

A. I explained by having that dyke built higher than the general back of it, and, of course, it was done for the purpose of filling up that with ground.

COURT: Is that always the purpose of those dykes?

A. No; I do — know that it is. I think the purpose is to establish a wharf line more than anything else, to strengthen the land. I know it was surveyed, and the land built according to that.

Q. Where was the wharf surveyed?

A. I do not know.

282 Q. Can you state generally?

A. Within ten years. It was surveyed before the dyke was built.

Q. Do you know of it having been surveyed since that time with reference to the corner of the streets?

A. There is a corner stone for the west side of the wharf.

Q. Do you know when they were put in?

A. I do not remember. It has been there a long time.

Q. Where was the longitudinal dyke built?

A. I said I did not remember, but it was a long time ago.

COURT: How many were there?

A. The one at Destrahan street.

Q. How far did that extend north and south?

A. It commenced at Bissells point and run as far as North Market street. It might have gone further.

Q. Captain Liebke, about these corner stones, you remember they have been there a long time?

A. Yes, sir.

Q. Can you say whether they have been there ten years or more?

A. I think more than that.

Mr. BELL: What corner stones?

Mr. ALLEN: At the wharf and Dock and wharf and Buchanan, one at each corner.

WITNESS: I will not testify about Dock street. I do not remember saying that.

Q. You know of one at Buchanan?

A. Yes, sir.

Q. How far is that, about, west of the railroad tracks now?

A. 11 feet; I believe that is the ordinance, to keep within 11 feet of the west line of the wharf.

COURT: You say the stones are there?

A. Yes.

Q. Located at Buchanan street?

A. Yes, sir.

COURT: Then there is one *th*at Dock street, is there?

A. I will not state that because I never saw it.

COURT: Do you know of any other stones besides the one
283 at Buchanan street?

A. No.

Q. You do not know the exact time when it was put there?

A. I am sure it is there more than ten years. I know that is the case.

Q. Do you know for what purpose it is meant?

Mr. BELL: We object to the question.

Q. What kind of an object is it—a loose stone or whether the stone is marked?

A. I think the stone is marked City on the corner above the ground. It is a square stone, eighteen inches square, and put there by the city, establishing the west corner of the wharf and Buchanan street.

Cross-examination by LEVERETT BELL, Esq.:

Q. As I understand, the city build the spur dike from the foot of Destrahan. It projected east in the Mississippi river?

A. Yes.

Q. That is built all of stone?

A. Not stone all through that.

Q. I suppose the *in*struction is about fifteen or twenty feet wide?

A. Yes, sir.

Q. Could any one travel on the top of it when it is above water to the end of the dike?

A. Yes, sir.

Q. On foot?

A. Yes, sir.

Q. With a vehicle he could not?

A. Yes, sir.

Q. Could one wagon pass another wagon?

A. I will not be positive whether it limits one wagon or not.

Q. What is the distance on this spur dyke from the water's edge of Destrahan eastwardly to the eastern end of the dyke?

A. Quite a distance.

Q. A thousand feet?

A. I do not think it is that far.

Q. Five hundred feet?

A. Somewhere along like that.

Q. This dike was built by the city of St. Louis?

A. I think so.

Q. About what year?

A. That dyke was there——

284 Q. When did you first know it?

A. My recollection is, in 1857 or 1858.

Q. You knew it then?

A. Yes, sir.

Q. Was it built some years prior to those years?

A. I do not know how many years.

Q. When did you know it was a dike?

A. My recollection is they were working that very year. I believe, if my recollection serves me, that teams would go up there with rock to keep the sand from washing away. There was a road by which a person could drive out or proceed to the end of the dike.

Q. Did the city put some posts up there?

A. I put the*n* there by getting permission from the city.

Q. You say the dike run down from the water works to North Market, the longitudinal dike?

A. Yes, sir.

Q. How far east of the end of the dike you speak of was it—did it commence—the eastern end of the dike?

A. It ran southward down as far as North Market street. It may have run farther.

Q. The longitudinal dike, was that out of the water?

A. Yes, sir.

Q. Is it out of water now?

A. Yes, sir.

Q. At ordinary stage of water?

A. I will not say that. It takes nine feet on the gauge to go over the top of it, and we consider that rather a medium stage.

Q. Do the boats raft over the longitudinal dike to the shore?

A. Not except in high water.

Q. You have spoken about boats and rafts and lumber being ties up on the water and river front ever since 1857. Do you mean tied by the longitudinal dike or shore of the Mississippi river?

A. That longitudinal dike was not built at the time I spoke of so many rafts going in there, and I know of years we used to have a good deal of trouble in getting logs there.

Q. When was the longitudinal dike built?

285 A. I do not remember.

Q. Do you remember if it was after the spur dyke was built?

A. Yes; no doubt about that.

Q. Four or five years after?

A. I should not be surprised.

Q. If the longitudinal dike extended southward with the Mississippi river, you say the boats and rafts did not land on shore except there being high water?

A. They could not go over except at high stages of water. That is the time lumber rafts arrived here—during the period of high water.

Q. At such times they floated over the longitudinal dike to the shore?

A. Yes, sir.

Q. This longitudinal dike and spur dike acts as a fence in the operation of the waters of the Mississippi river?

A. I think so.

Q. In front of this property and adjacent property?

A. Yes, sir.

Q. And the result of turning that water was that finally the earth filled it up and as it is there today?

A. Yes, sir.

Q. Is the longitudinal dike opposite what is known as the Sweringen property? Is that right on the water's edge today?

A. Yes, sir—yes; very near it.

Q. Is it not a fact on the eastern end of the Sweringen land today you will come on this rocky formation?

A. The rock is outside now.

Q. So far as this particular land in controversy is concerned, the effect produced by the longitudinal and the other dike was to make ground right from the river shore where it there existed thirty or forty feet—was to produce solid ground all the way. The dike is at the water's edge now. Back of it is all solid ground?

A. Yes, sir.

Q. The longitudinal and spur dikes—the effect has been to build up the ground?

A. Yes, sir.

286 Q. This occupation you speak of up there, you were not claiming to occupy any ground belonging to Mrs. Sweringen?

Mr. ALLEN: We object to that; that is a question of law.

COURT: Objection overruled.

To which ruling of the court the defendant then and there excepted.

WITNESS: I claim nothing more than the Buchanan title, the Buchanan lease.

Q. Did you occupy what is shown on this plat, this lot # 4, that—that was the original lease?

A. Yes; we had that.

Q. Lot # 4 in the original lease?

A. Yes, sir.

Q. From 2nd street east and from Angelrod right to the southern boundary of the Buchanan estate, you occupied that under that lease?

A. Yes, sir.

Q. Did you occupy lot 4 under that lease?

A. Yes, sir.

Q. And only by virtue of that lease did you occupy lot 4?

A. We had McPheeters' and Crosby's lease after that.

Q. When, if ever, did you occupy lot # 4 under another lease?

A. She got another quantity of land all marked # 4 that I occupied. I cannot tell about the particular lot.

Q. You cannot say you occupied that?

A. I occupied it under the original lease.

Q. You went as far as any land was?

A. I cannot tell whether that was there or not. We did not survey it.

Q. You did not occupy any land under the surface of the water, did you?

A. No.

Q. Can you tell about what year, if you were in possession, if at all, that part of share # 4 as shown there, that accretion?

A. You mean that particular lot.

Q. Can you state whether you were ever in possession?

A. I will not say that.

Q. This Rocky branch is now built up as a sewer?

287 A. The mouth is, I think.

Q How far westward does the sewer run?

A. Up to Hall street.

Q. To Hall street?

A. Yes, sir.

Q. How many feet is that from the water's edge—Hall street; how many feet does that sewer extend from the water's edge to Hall street?

A. About twelve hundred feet.

Q. The sewer runs twelve hundred feet westward?

A. The distance between 2nd and Hall street; that would take—that will be about seven hundred feet.

Q. All of Rocky branch east of Kennett is covered by the sewer?

A. I think not. I think the branch comes in the mouth of it.

Q. The sewer runs as far as Kennett?

A. Yes, sir.

Q. All of the branch east of Kennett is covered by the sewer?

A. I think the mouth of the branch is below the sewer. That is my recollection.

Q. You say the branch don't run perfectly straight?

A. Branch street is east and west.

Q. You are speaking about the Branch Street sewer, and I am talking about the sewer that covers Rocky branch, that has been inclosed in a sewer.

A. I think it runs across it. I do not think it follows Rocky branch. The water formerly in low water flows through the Rocky Branch sewer.

Q. Does not Rocky branch commence as far west as Kennett?

A. That is where it crosses it. That is my recollection. I will not be sure.

Q. From Kennett street the sewer proceeds to the Mississippi river and carries waters that formerly flowed in the Rocky branch?

A. Yes, sir. I want to correct myself. I am not positive whether the mouth of Rocky branch is as far south as Branch street or not.

Mr. BELL: That is not the question. I am asking whether the sewer known as Rocky Branch sewer extends from Kennett
288 street to the water's edge of the Mississippi river.

A. Yes, sir.

Q. And through the sewer water flows that formerly flowed through Rocky branch?

A. Yes, sir.

Q. The water — is discharged by Rocky branch is covered by a sewer now as far west as Kennett street, known as Rocky Branch sewer?

A. Yes, sir.

Q. That sewer runs in straight lines?

A. It runs in straight lines.

Q. Mr. Liebke, you do not claim that your logs ever occupied any part of the ground sued for in this case?

Mr. ALLEN: We object to that. You are assuming that he knows what is the grounds.

The COURT: Objection overruled.

To which ruling of the court the defendants then and there excepted.

A. I do not know what you are suing for.

Q. We are suing for Mrs. Sweringen's property between the two lead-pencil lines (referring to copy of plat of Buchanan's addition)—east of there. We are not suing for any west of that line. We are suing for ground bounded west by that line and be-

tween these lines to the Mississippi river (here indicating to witness where ground is on plat of Buchanan's addition).

To which question defendants entered an objection.

A. We never claimed that ground. There might have been logs on there, but we did not place any logs there on purpose.

Q. This Buchanan ground you occupied, you never occupied any ground there east of this land I have showed you on the plat; your ground was all to the west of it, was it not? Here is the plat, there is the line along there. Your occupation was west of that line always, was it not?

A. West of this river line.

Q. Your occupation was west of that line? I am not speak-
289 ing from north to south, but west of that line.

A. West of the railroad and part east, to-.

Q. Did you ever occupy any ground east of the railroad?

A. Yes, sir.

WITNESS: You have reference only to the ninety feet?

Mr. BELL: Yes; I have reference to only the ninety feet.

A. I would not like to answer yes or no. I might have.

Q. If you have done so, I will ask whether it was intentional.

A. I do not think so.

Q. Nor had you any intention of claiming the title or anything of that sort?

A. No; because I did not occupy it with any intention of claiming it.

Q. Mr. Liebke, describe a little more specifically what this occupation consisted of Were logs placed on the ground?

A. Yes, sir.

Q. Did you cut any logs?

A. Not down there.

Q. It consisted entirely of logs being brought to the city to be sawed into lumber?

A. Yes, sir.

Q. Logs taken from rafts?

A. Rafts and barges.

Q. These rafts ordinarily are rafted during high water, along in the spring, in May and June?

A. Yes, sir.

Q. When the logs were hauled off the land you speak of they were taken from there to the saw-mill?

A. That is the way. We get the benefit of navigation until the close of navigation. Our aim is to get the logs, and get enough stored on the ground; that is the use made of the ground. We get a stock of logs in the early spring until the new logs arrive again.

Q. As soon as the logs arrive and — placed on the ground they commence to remove them to the saw-mill?

A. They are there sometimes six or eight or nine months, according to what the saw-mills are doing. We get logs ahead.

290 Q. You get logs six or nine months ahead?

A. Yes, sir.

Q. When logs arrive during high water in spring there are already others logs in the same ground waiting to be sawed?

A. If not sawed, they are still there.

Q. There are always logs there to be sawed up when the other logs arrive, or has it been the case when logs arrive the ground is vacant and then you occupy it?

A. Yes, sir.

Q. That has often been the case?

A. It has occurred; not often.

Q. This occupation of the logs was entirely temporary in character until they are needed by the saw-mill?

A. Yes, sir.

Q. From year to year, as long as this practice continued, the logs were only temporarily placed on this ground until needed at the saw-mill, when they were hauled there and sawed?

A. That is right.

Q. The occupation was continually changing, old logs were taken off and new logs were brought in, and in that manner the land was used?

A. Yes, sir; except, for instance, where we would have a yard for old logs we would hold a lot of logs to cut up special logs for special lengths. We have got logs in our yards four years old and lying in the same place.

Q. With reference to the bulk of them, they were used shortly after they were brought on the ground?

A. Within six or eight months.

Q. I mean this case of logs-sawing, four or five years is exceptionable in character?

A. Yes, sir.

Q. Did the logs cover the entire surface of the ground or piled up in piles, or what was done?

A. When they came in rafts they were spread over the ground single deep; sometimes they were piled two and three high when we did not have room enough to scatter them all over the ground.

291 Q. And then taken from the yard with a wagon to the saw-mill?

A. They were hauled on wheels to the saw-mill.

Q. Where is the location of the saw-mill?

A. That is 2nd and Buchanan streets. We own and lease all the ground between 2nd and the river and Angelrodt and the southern line of the Buchanan estate. At times every foot is used, and times we did not use all of it.

Q. Are your yards fenced?

A. No, sir; some of the ground is fenced.

Redirect examination by CHARLES CLAFFLIN ALLEN, Esq.:

Q. Mr. Liebke, you said something about not holding any of this property adversely to Mrs. Sweringen. Did Mrs. Sweringen ever make any claim to you for this property until the last two or three years?

A. She never made any up to date.

Q. You were occupying this property as you have described it under a lease from Buchanan to the southern boundary of the estate?

A. Yes, sir.

Q. You were holding this property at that time under a lease from Buchanan heirs?

A. Buchanan heirs; yes, sir.

WITNESS: What property do you mean?

Mr. ALLEN: I mean the Buchanan estate.

Ans. We had it all with the exception of when the lease expired, as I said before, when # 5—I think that was sold.

Mr. DRABELLE: Sold to Mr. Lewis?

A. I think it was.

Mr. ALLEN: I understand you to say that you followed the line of the river as it advanced from 1866?

A. After that.

Q. You followed it down there to what is marked on the plat shown you by Mr. Bell as W. L., the present wharf, which, I suppose, means the western line of the wharf—you followed the river down there?

A. If I was sure when that wharf was built, I could tell more about it—when that dike was built, I mean.

292 Q. This plat which Mr. Bell has question- you about being the copy of the Buchanan partition, this line where the river was then in 1866, you occupied all down to that?

A. Yes, sir.

Q. And as far west of the green and red line, you occupied everything in 1866 after that, of the Buchanan estate, with the exception of that # 5?

A. Yes, sir.

Q. You leased that and occupy under that lease today?

A. A part of it.

Q. Where Mr. Bell called your attention to the land, east of which you said you had not occupied with logs, he pointed out this land here on the east side of what is now city block 2544 and marked W. L. of the present wharf?

A. I think that was it—the west line of the wharf.

Q. That is the line east of which you did not have your logs?

A. I might have went there at times, but not intentionally, because we had no occasion to go there; we had plenty of room.

Q. You were called upon to identify the land which Mr. Bell pointed out to you as the land east of which you had not occupied, was the land here marked on this plat W. L. of present wharf?

A. That is what I understood him to say.

Defendants here offer the copy of plat of Buchanan's addition, from which Mr. Liebke testified.

(Here follows map marked p. 293.)

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

294 JAMES M. MONTGOMERY, being duly sworn on behalf of defendant-, testified as follows:

Direct examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. State your full name.
A. James M. Montgomery.
Q. State your residence.
A. Alton, Illinois.
Q. How old are you?
A. Sixty-two.
Q. What is your occupation?
A. Steamboat pilot.
Q. How long have you been in the business?
A. I have been pilot since 1857.
Q. Since 1857?
A. Yes, sir.
Q. On what river?
A. Mississippi river.
Q. What part; northern or southern?
A. Northern.
Q. That is to say, the Upper Mississippi river, running from St. Louis north?
A. Yes, sir.
Q. During all that time have you been a pilot?
A. Yes, sir.
Q. Have you been familiar with the river?
A. Yes, sir.
Q. Do you know where Bissell's point is?
A. Yes, sir.
Q. Do you know where the neighborhood of North Market street is?
A. Yes, sir.
Q. Bissell's point is north of North Market street?
A. Yes, sir.
Q. Where is Dock street, if you know?
A. I do not know all the streets by name.
Q. Do you know where Captain Liebke landed his logs?
A. Yes, sir.
Q. How long have you known it?
A. I have known it—I have paid attention to it—I know it before—well, say twenty-one or twenty-two years.
Q. State what was the shape of the land with reference to the river from Bissell's point south to about North Market when you first knew of it.
295 A. There was quite a little bend there. It ran—it started at Bissell's point and ran down. It started at Bissell's point and ran down below North Market street. The deepest part in the bend, I think, was a little above Liebke.
Q. You say the deepest part of the bend. You mean the point furthest in the shore?
A. Yes, sir.

Q. What river men call the bight of the bend?
A. Yes, sir.
Q. Will you state what, if anything, you know of the landing of boats, barges, rafts, or any river craft between that time and the present time?
A. We used to—once and awhile boats would stop there and get raft-men's kit-; maybe fifteen or twenty; sometimes more than that; think a raft amounts to about twenty men and their lines.
Q. Do you know where Rocky branch is?
A. No, sir.
Q. Do you know Horse creek?
A. No, sir.
Q. Do you know of any creek running in south of Horse creek, on Gin Grass creek?
A. No, sir.
Q. Do you know whether or not there is any branch or creek that runs a little south of Gin Grass creek?
A. I do not have any recollection to that.
Q. With reference to Liebke's log run and mill, do you know where that was?
A. Yes, sir.
Q. State what you know about the landing of any rafts.
A. Rafts used to come—rafts all floated down there—and always landing along in there.
Q. Most of the landing is in that neighborhood?
A. From Bissell's point, about North Market, along there.
Q. What was the condition of the water there?
A. Sometimes the channel of the river would be around that shore—around that point—and then at other times in the middle of the river, and at other times on the east side of the river.
296 Q. In reference to the bend below Bissell's point, in this bend was there at any time and eddy?
Q. There was an eddy around there pretty much all the time.
Q. Just state the value of landing there, if any.
—. Behind the eddy there was slack water.
Q. I will ask whether rafts are safer in a channel or slack water.
A. Slack water; it is easier to check and hold them in slack water than in stronger water.
Q. State whether or not you know of any rafts being landed at the site of Liebke's log run.
A. I think quite a number of rafts were landed there.
Q. Was that in the channel or slack water?
A. Slack water.
Q. There is a lumber yard there, is there not?
A. Yes, sir.
Q. And quite a number of rafts landed there?
A. Yes, sir.
Q. How has that been, beginning with your knowledge in 1857—has it been continuously or at intervals?
A. Continually.
Q. From 1857 down to the present time?

A. Yes, sir.

Q. State whether any barges or boats ever landed. I understood you to say your boat sometimes landed to take on what is called raftsmen's kits, lines, &c.

A. Yes, sir.

Q. Do you know anything about any barge—have any barges of late years landed there?

A. A great many.

Q. Do you know anything about any dikes attracting your attention in the vicinity of Liebke's log run?

A. There used to be a dike above there.

Q. What kind of a dike?

A. A stone dike.

Q. Which way did it extend, into the river or along the river?

A. Into the river.

Q. Do you remember how long that has been there?

A. No; I do not. I think the dike was built there, the best of my recollection—I think it was built there in 1858; maybe I am mistaken.

297 Q. That is the spur dike?

A. The spur dike.

Q. Was it above or below the log run?

A. Above the log run.

Q. Near or far?

A. I suppose it was between twelve and fifteen hundred feet.

Q. Do you know anything about — we call the longitudinal dike?

A. I know one is up in there. I paid no special attention to it.

Q. You say it is there?

A. Yes, sir.

Q. Along the bank of the river extending from where north?

A. From Bissell's point down below North Market.

Q. From Bissell's point southward below North Market?

A. Yes, sir.

Cross-examination by LEVERETT BELL, Esq.:

Q. Captain, are you in the steamboat business now?

A. Yes, sir.

Q. Between here and Alton?

A. Yes, sir.

Q. Were you in that trade last year?

A. Yes, sir.

Q. How long have you been contin-ously in that trade?

A. Yes, sir.

Q. Before that time where were you running?

A. To Keokuk.

Q. This dike you speak of so much is at the foot of Destrahan street?

A. I do not know anything about streets. I do not know the names of them.

Q. But it is at the foot of a street, about twelve or fourteen hundred feet north of Liebke's mill?

A. Yes, sir.

Q. And the dike extended eastwardly into the Mississippi river from the foot of this street?

A. Yes, sir.

Q. You do not know whether it is a street or not?

A. Exactly; I never paid any attention to the streets.

Q. Did you ever see any vehicles on it?

A. I noticed—I seen a wagon on that dike when hauling stone.

Q. Have you seen a wagon out there since the dike was completed?

A. No.

298 Q. The dike started from the foot of this water's edge and proceeded eastwardly in the Mississippi river about six hundred feet, didn't it?

A. It might have been that much and not as much and a little more.

Q. What is your best judgment?

A. Between six and seven hundred feet.

—. ——?

A. Yes, sir.

Q. It is built of stone?

A. Yes, sir.

Q. There is a stone bottom in the river and it was finally raised above the surface of the water?

A. Yes, sir.

Q. I suppose the structure is fifteen or twenty feet wide?

A. Yes, sir.

Q. And it was all made by placing loose stone in the river until it was raised above the water?

A. Yes, sir.

Q. At the end of this dike there is a longitudinal dike extending north and south of the spur dike and extending as far south as North Market?

A. Yes, sir.

Q. And as far north as the water works?

A. Yes, sir.

Q. And that dike is built in the same manner by placing stones in the Mississippi river?

A. That was not built in the same manner. That dike was built by having barges along there and throwing the stone off the barges.

Q. Into the water?

A. Yes, sir.

Q. But still it was built of stone placed in the waters of the Mississippi river and rising gradually until it was above the water?

A. Yes, sir.

Q. That dike was also a structure of about twenty-five or thirty feet wide?

A. I never noticed.

Q. It was wider on the bottom than on the top?

A. Yes, sir.
Q. How wide was it on top?
A. Some places it looked like it was five or six feet wide.
Q. You never stopped there, did you?
A. Just looked at it while passing.
299 Q. The effect produced by these two dikes was to shoal the water inside of the longitudinal dike up to the water's edge?
A. Yes.
Q. And it made land?
A. Yes, sir.
Q. And finally the land below was above the surface of the water?
A. Yes, sir.
Q. And so today you can start at a point west and walk on made ground to this longitudinal dike?
A. I do not know.
Q. You have not been on the ground?
A. No; I could only tell by passing up and down the river.
Q. Is it not the general effect produced by these dikes to fill up what was formerly the bottom of the river?
A. Yes, sir.
Q. Now where dry ground exists?
A. Yes, sir.
Q. When you speak of boats landing there and landing their rafts going there and barges going there, you mean, of course, that they went on navigable water of the Mississippi river—that is, navigable to the shore?
A. Yes, sir.
Q. And all of these times you speak of, the water of the Mississippi river was navigable up to the shore?
A. A fall comes pretty quick, unless it was filled with seven or eight feet after high water.
Q. When the high water comes the dikes are all submerged, and when the water falls the deposit is left within the dike?
A. Yes, sir.
Q. And this ground is made?
A. Yes, sir.
Q. Whenever a steamboat went in there, it went on what is navigable water?
A. Yes, sir.
Q. That longitudinal dike did not appear above the surface of the water in high water?
A. It was low-water water. Sometimes it was navigable over the longitudinal dike.
300 Q. We understand your testimony to be that whenever a steamboat went to the bank of the river it went on navigable water of the Mississippi river?
A. Yes, sir.
Q. This occupation by steamboats or rafts was only temporary in its character?

A. Yes, sir.

Q. They came in one hour and, perhaps, went away another hour?

A. Yes, sir.

Q. Rafts would come there and the raft would lay in the water until the logs were hauled on dry land; and was that the same with barges and all that sort of thing?

A. Yes, sir.

Redirect examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. The boats navigated on water; they tied up there? They did not land there; they tied up?

A. Yes, sir.

Q. The boat remained floating in the water?

A. Yes, sir.

Q. But the rafts did land sometimes?

A. Yes, sir; they would go there in high water, and when the river would fall they would be there on dry land. Rafts do not go in a few minutes. The boats get away.

Q. The rafts would stay until taken apart, unloaded by persons, wagons, or something else?

A. Yes, sir.

Q. How long would rafts lay there?

A. I cannot tell how that would be. I did not pay attention.

JOHN H. MACBRIDE, being duly sworn on behalf of defendants, testified as follows:

Direct examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. State your full name, please.

A. John H. MacBride.

Q. What is your age?

A. I am past seventy-two.

Q. What is your occupation?

A. Steamboatman.

Q. In which capacity?

A. Pilot, pilot.

Q. On what part of the Mississippi river have you been a pilot?

A. I have piloted from St. Louis to Rock island and to New Orleans.

301 Q. Both up and down the river?

A. Yes, sir.

Q. How long have you been familiar with the upper Mississippi river or from the center of the city, here on the levee, or Washington avenue northward past the present city limits?

A. Something over fifty years.

Q. When did your acquaintance first begin with the Mississippi river?

A. In 1843.

Q. In 1843?

A. In the spring of 1843.

Q. What was your experience after that, and how long did it continue?

A. I have been steamboat-rafting and steamboating together right straight along.

Q. You have been a raftman?

A. Yes, sir.

Q. Are you familiar with that part of the city from Bissell's point south to the neighborhood of North Market street?

A. I am not so familiar with it now as I have been formerly.

Q. When were you familiar with it?

A. Back in 1840 and 1850.

Q. What was the contour of the land in that vicinity in 1843, when you first saw it?

A. The land was then *was* some distance from where it is now.

Mr. BELL: Westward?

A. Yes, sir.

Mr. ALLEN: With reference to there being a bend?

A. Yes; at Bissell's point there was rather a sharp bend.

Q. Are you familiar with the streets up there?

A. I am when on shore, but cannot tell where they would strike the river now.

Q. Can you tell about where the center of this bend was, or bight of the bend, as steamboatmen say?

A. I think it was near, to the best of my recollection, about the mouth of Rocky branch.

Q. You knew Rocky branch?

A. Yes, sir.

Q. That was about the middle of the bend when you first knew it?

A. Yes, sir.

302 Q. What was the condition of the water as to being a swift current or slack or an eddy?

A. The water in there was slack.

Q. With reference to rafting, what effect did that have?

A. You had to have slack water to land rafts. You could not land in a strong current, and could not check them, and they always went in Hoise Creek eddy, not being a regular eddy, there was slack water so you could check the rafts.

Q. Hoise Creek eddy, what is the other name?

A. Gin Grass.

Q. Gin Grass creek is a short distance north of Rocky branch, is it not?

A. Yes, sir.

Q. This place or bend went by the name of Hoise Creek eddy?

A. It was always known to river men and steamboatmen as Hoise Creek eddy.

Q. What do you know about landing of rafts at the mouth of Rocky branch, and when did you first know that fact?

A. I never saw any rafts landed in the mouth of the Rocky branch, but I have seen them landed above there and below there. There

has been rafts landed there ever since I came on the river. It used to be the only landing place for a raft—the only place a raft could be landed in the city of St. Louis.

Q. Did you ever have any experience yourself in rafting—going into that?

A. I landed a good many rafts in there myself.

Q. At what period of time was that?

A. Most of the rafts I ever landed in there was in 1850; along about from 1848 to 1852.

Q. Then, do you know anything about any steamboats or barges, whether they ever landed in the period of time from then until now?

A. In 1866 no steamboats or barges landed there; there was nothing for them to do.

Q. Rafts did not come down on steamboats?

A. No, sir.

Q. Did you ever go in there for a raftsman kit?

A. No, sir; never.

303 Q. Do you know anything about the spur dike in the vicinity of Destrahan street?

A. Yes; know one was built there, along back. I cannot say exactly when it commenced.

Q. But it came out the river where it is at present, at right angles with the shore?

A. Yes, sir.

Q. Can you tell about what time that was?

A. I do not believe I can. It was before the war.

Q. Do you know anything about the longitudinal dike extending southward?

A. I know the dike is there; that it was built there—most of it since the war. It is about Mound street, as near as I can recollect, to Destrahan street. There were other spur dikes below that.

Q. Below Destrahan?

A. Yes, sir.

Q. Where were they?

A. One on Montgomery street and one at North Market, and I believe there was one at the foot of Webster Str. Yes; I know there was.

Cross-examination by LEVERETT BELL, Esq.:

Q. What boat are you *own* now?

A. Not any.

Q. What boat last season?

A. I was on several different boats. The last boat I was on was the Ruth, running up above.

Q. Were you engaged last season in navigating north of St. Louis?

A. Not much.

Q. Season before that?

A. I was the season before that. I was running up and down

the river every year. I usually run on the D. H. Pike, and also I ran up the Illinois river.

Q. I understood you to say part of your experience was between St. Louis and New Orleans and another part between St. Louis and northern points.

A. I know the river from Rock Island to New Orleans.

Q. The spur dike you spoke of was a dike put out from the foot of Destrahan and built eastwardly in the Mississippi river?

A. Yes, sir.

304 Q. And went out some distance—five or six hundred feet—east of the water's edge?

A. It would be merely guesswork on my part; I should say more than six hundred feet.

Q. As much as a thousand feet?

A. Yes, sir.

Q. It went out from the foot of Destrahan street about a thousand feet eastwardly?

A. Yes, sir.

Q. That dike was built by placing loose stone in the river, one above the other, until a wall was raised above the water?

A. Of course; that is the only way a dike is built, by piling rock into the river.

Q. That method was adopted?

A. Yes, sir.

Q. How wide was it on top?

A. I have no idea.

Q. How wide at the bottom?

A. I cannot tell; I never measured it.

Q. Was it wider on the bottom than on top?

A. Yes, sir.

Q. The base was wider than the top?

A. Yes, sir.

Q. Did you ever see a wagon or vehicle on it?

A. I don't remember.

Q. It is practically an extension of Destrahan street eastwardly a thousand feet in the Mississippi river?

A. Yes, sir.

Q. Then a dike was built from Bissell's point to North Market. You say a dike was built from Bissell's point?

A. I do not know of any dike built at Bissells point. I know of one at Destr-han.

Q. The testimony of some of the witness was it extended as far north as Bissell's point and proceeded south to North Market; you know at least it was from Destrahan—the east end of it?

A. It commenced south and was built up the river.

Q. It was a dike extending from the east end of Destrahan southward to about North Market?

A. To Main street.

Q. That dike was built of stone also?

A. Yes, sir.

Q. And there never was a time that the top of the dike at
305 ordinary stage of the Miss. river was above the water?
A. At ordinary stage? *A.* Yes, sir.

Q. The effect of those dikes was to destroy the current of the river inside of them and to cause a settling of the sediment on the bottom?

A. That is my understanding. The effect of building those dikes was in order to get out into deep waters and to make a shore from Main street to near towards Bissells street.

Q. What was the effect? It resulted in dry land west of the dike, did it not?

A. Of course, I do not know the water turned into dry land.

Q. The dry land of the Missouri shore is bounded eastwardly by the longitudinal dike?

A. Yes, sir.

Q. So that what was at the time these dikes were built a large body of water in the bend spoken of is now dry ground?

A. Yes, sir.

Q. The operation of the dike generally has been that in times of high water there would be a settlement when the water would fall, and that has been going on until the bottom of the river has appeared?

A. I did not know the bottom of the river is above the water.

Q. Where the bottom of the river existed—where it was navigable—it is now dry land?

A. Yes, sir.

Mr. BELL: I think there should be a limit of these witnesses. We have no testimony to rebut anything said by these two river captains. We will introduce no evidence to contradict these river captains.

HERMAN RICHTIEN, being duly sworn on behalf of defendants, testified as follows:

Direct examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. State your full name.

A. Herman Richtien.

Q. Now, do you know when the longitudinal dike from Destrahan street south to North Market—when it was put in and who put it in?

306 A. Yes, sir; from Mound to Bissell's point.

Q. When was it made?

A. I think it was started in 1864. It took about two years to complete it. The Sheehans had *to* contract of doing the work.

Mr. ROBERT: From whom?

A. From the city; I did the towing.

Q. What do you mean by towing?

—. Carrying the rock. They had barges which took it up there.

Q. The rock was put in the dike?

A. Yes, sir.

Q. How far did you say that dike extended southward?
A. To Mound street, a little below.
Q. To Bissell's point?
A. Yes, sir.
Q. At that time was the spur dike in Destrahan street?
A. No spur dike was made at Destrahan street. The spur dike was up at Mound street, and there was a smaller one somewhere in that neighborhood, but it was not built so high, except the one at Montgomery; that was built high, so was Mound street.

Cross-examination by LEVERETT BELL, Esq.:

Q. Did this north and south dike connect with the Destrahan Street dike at its eastern extremity?
A. Yes, sir.
Q. And with the other dikes?
A. Yes.
—. Montgomery and Mound Street dike built first?
A. Yes, sir.
Q. And that projected from the water's edge at the foot of Destrahan street, about a thousand feet in the Mississippi river?
A. A little more than a thousand feet—that is, from 2nd street.
Q. Where was the water's edge at Destrahan street, with reference to 2nd street, at the time the dike was commenced?
A. The water used to come to 2nd street.
Q. Destrahan Street dike was a rocky structure, extending from the water's edge, at the foot of Destrahan street, a thousand feet in the Mississippi river?
A. It was not built of rock altogether.
Q. What was it built of?
307 A. Some dirt and clay; that is the first beginning, and then afterwards rock.
Q. Mostly of rock?
A. Yes, sir.
Q. Thrown in the water and brought above the surface of the water?
A. At ordinary stage.
Q. In periods of high water was the water over the dike?
A. Yes.
Q. After the dike was built could persons drive out on it with vehicles?
A. In ordinary stages.
Q. Was there room for one vehicle to pass another?
A. Yes, sir.
Q. With reference to the longitudinal dike that ran southward from the end of Destrahan street, what was that constructed of?
A. That was built of rock.
Q. Rock also?
A. Yes, sir.
Q. Was that above the ordinary stage of water in the Mississippi or below it?

A. There was a change once in a while of the current of the Mississippi. It changes from one side to another. I have seen deep water all along there in a bend called an eddy. Then I seen a big sand bar between the two.

Q. At ordinary stage?

A. There was a good stage of water.

Q. Prior to the building of these dikes there was quite a bend to the west of the Mississippi river?

A. Yes; considerable.

Q. This longitudinal dike practically ran from the south end of the bend to the north end of the bend, did it not?

A. Yes, sir.

Q. What effect did this dike create on the land contained in that bend of the river?

A. Shut the current off, and then keep the current on the outside, except in high water, when it would go clear over.

Q. What effect did it produce on the surface of the earth in reference to making ground?

A. At every high water it would fill it up—leave a river sediment there.

308 Q. Did it result in changing the water's edge from where it was before the longitudinal dike was built to the longitudinal dike?

A. It is a natural bridge.

Q. Where is the water's edge today?

A. There is a bar there now, very close up and down the land——

Q. But inside of this dike that was formerly navigable water it became dry land?

A. Yes, sir.

Q. That is the condition of it today?

A. Dry land is there now, except a small piece that goes through the railroad track. Sometimes the water stands, but not to amount to anything.

Q. The general result is that the water's edge formerly represented by a line curved to the west is now represented by a straight line?

A. Yes, sir.

JULIUS MOULTON, being duly sworn on behalf of defendants, testified as follows:

Direct examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. State your full name.

A. Julius Moulton.

Q. What is your position, sir?

A. I am engineer in the harbor and wharf department of the city.

Q. How long have you held that position?

A. Since the fall of 1893.

Q. You are by profession, then, a civil engineer?

A. Yes, sir.

Q. Also a practical surveyor?

A. Yes; I have done considerable surveying.

Q. State whether or not as engineer of the harbor and wharf department you did any surveying with reference to the establishing of the wharf line and the wharf between Dock and Buchanan streets.

A. Yes, sir; I made a survey of that part of the wharf in the fall of 1883, and also in 1884.

309 Q. In the fall of 1883 and 1884?

A. Yes, sir.

Q. Did you make any survey of the city north of Dock?

A. I continued the survey on down to Anna streets.

Q. That is in the city, is it not?

A. Yes; that is in the southern part of the city.

Q. How far north did you go?

A. I went as far north as the water works.

Q. Mr. Moulton, state if anything you did with reference to fixing monuments and attracting your attention particularly to the neighborhood of Dock and Buchanan street.

A. After making the survey the stakes were removed and stones put in the places along, perhaps, about a year or year and a half after the survey was made.

Q. Where did you place your stakes? And, if so, state with reference to Dock and the wharf.

A. The corners were the places, according to the directions laid down in the ordinance for establishing the——

Q. What ordinance do you refer to?

A. Ordinance 5403 for opening and establishing the wharf, passed and approved August 6th, 1864.

Q. Directing your attention to this plat, which is known as plat # 1 and produced by the plaintiff, can you indicate where on that plat you placed the corner-stones of Dock and the west line of the wharf?

A. We placed one stone on the northwest corner of what would be the west line of the wharf and Dock street and one on the southwest corner of—that is, further to the west and south of Dock street.

Q. You placed one at what corresponds to the northwest corner of Dock street and the wharf?

A. Yes, sir.

Mr. ROBERT: Being the southeast corner of city block 2544.

Mr. ALLEN: I beg to call your attention—in the absence of the so-called field-notes of Mr. Joyce. Describe once more where you placed the stones besides the northwest corner of Dock street

310 and the wharf.

A. One was on the southwest corner of Dock and one in the north line of Dock, where the west wharf line proceeds northward.

Mr. ROBERT: Which side line?

A. The eastern line of city block 661 E., going northward from the northwest corner of Dock street and the west line of the wharf.

Q. Where did you place the next stone?

A. One at the intersection *and* the south line of Buchanan street

and one at the intersection of the north line of Buchanan and the west wharf line.

Q. The one on the south line of Buchanan street and the wharf would be at the northeast corner of block 2544?

A. The wharf line is now the line connecting the stone at the southeast corner of city block 2544 and that which is on Dock street and the wharf.

Q. The stone on the northeast corner of block 2544, being on Buchanan and the west line of the wharf—what line is that?

A. That is the line established by ordinance 5403, called the west wharf line.

Q. With reference to city block 2544, what line is it?

A. The eastern line of that block.

Q. How far is that eastern line of block 2544, which you designate as the western line of the wharf, from what is here marked—marked on plat #1, introduced by plaintiff, as the Chicago, Burlington and Quincy R. R.?

A. The eastern line of block 2544 would be eleven feet west of this inclosed line—this space.

Q. From what street to what street?

A. Between Dock street and Buchanan street.

Q. And passing across the entire eastern side of block 2544?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. Do you know the property Mr. Joy leased from the city?

A. Yes, sir; I surveyed the boundaries of the lease.

Q. Is it possible to indicate it on that plat?

311 Mr. ROBERT: Does it include the land in controversy?

A. Yes; not all of it. It includes that portion east of the Keokuk and Northwestern.

Q. Does it run to the wharf line?

A. He leased from the west line to the river.

Q. What does he pay per annum—what rent per annum?

Mr. BELL: We object. The instrument will show for itself.

Mr. ROBERT: If he knows what rent he pays, he can state.

Mr. ALLEN: I will ask if you know what Mr. Joy pays.

COURT: Objection overruled.

A. $600 for five years, and $1,200 the second five years, and the third five years at $1,800.

Q. How much land has he?

A. He has about 451 feet front.

Q. On the river?

A. Along the east wharf.

Q. And what is the date of the lease?

Mr. BELL: The lease will speak for itself.

COURT: Objection overruled.

A. April 9th, 1891.

Q. Is he in possession of any property west of the track?

—. ——.

Q. That is, a portion of this lease is also west of that 50-foot strip on plat # 1, lying adjacent to Dock street and extending southward 161 feet north of Dock. Does he occupy there from the west line to the river, or just from the railroad tracks to the river?

A. Just this strip.

COURT: That is the portion east of the railroad tracks?

A. Yes.

Mr. ALLEN: Just indicate as nearly as you can where Mr. Joy occupies.

A. The lease is from the south line of Dock, one piece southward 160 feet; than that strip eastwardly to this line (indicating the space occupied by the Chicago, Burlington and Quincy & *Quincy* railroad), and then the extension of that line across the wharf from the
312 east boundary line of the C., B. & Q. northwardly *northwardly* a distance of 451 feet.

Q. How much is there—square feet?

A. About 1,120 squares.

Q. How many acres?

A. I put it in squares.

COURT: How wide is it?

A. Four hundred feet long—280 feet. The size of the eastern parcel of this lease is 451 feet front on the water's edge by a depth westwardly 280 feet.

Q. That depth is not the same the entire front, is it?

—. The lease is divided into two parcels. One lease is east of the Q. right of way, and the other is west of it. The parcel east of it has a frontage of 451 feet on the river by a depth of 280 feet westwardly, and the parcel lying west of the Q. right of way has a frontage of 161 feet and a few inches by a depth of about the same.

Mr. DRABELLE: Making it altogether how many squares?

A. About 1,520 squares—152,000 square feet.

A. 152,000 square feet.

Q. What did you say that lease was for?

A. $600 for the first 5 years.

Q. $600 per annum?

A. Yes, sir; $1,200 for the second 5 years, and $1,800 per annum for the third 5 years.

Mr. DRABELLE:

Q. And the lease began when?

A. April 9th, 1891.

Cross-examination by LEVERETT BELL, Esq.:

Q. Mr. Moulton, what is the width of the strip of ground occupied by the Keokuk and Northwestern railway between Dock street and Buchanan?

A. They have about 40 feet now.

Q. Look on that plat. Here is the railroad down there; this is

Buchanan and this is Dock street. What is the width of the right of way occupied on the ground?

A. They occupy 40 feet in width.

Q. Is there any wharf existing between Dock and Buchanan street on the river front?

A. No wharf is built there.

313 Mr. ALLEN: We object to the question as calling for a conclusion.

COURT: Objection overruled.

To which ruling of the court the defendant then and there excepted.

Mr. BELL:

Q. Answer the question.

A. No, sir; not that I know of.

Q. How lately have you been on the ground?

A. I was there—I have been there the past three months.

Q. Within three months?

A. Yes, sir.

Q. When you were there last did you see anything of a wharf there?

Mr. ALLEN: We object to that.

Q. I will ask you whether there has actually been made on the ground any improvements in the nature of a wharf or anything of that sort that has been done by the city.

A. Nothing but the revetings.

Q. That is the old longitudinal dike spoken of by these witnesses?

A. Yes, sir.

Q. Is there any improvements of the wharf, and, if so, at what point north of Buchanan street—how far north of Buchanan street?

A. There is nothing but this revetment or dike.

Q. Nothing at all?

A. Except the ferry landing, built on Destrahan street.

Q. How many blocks north?

A. That is the third street, two blocks north.

Q. At what point south of this is there an improved wharf—what point south of the dike?

A. The improvement begins at Dock.

Q. It runs southward, but ends at Dock street, and does not proceed northward across to Buchanan?

A. No.

314 Q. Did you collect or ever collect any rent from Mr. Joy?

WITNESS: Personally, you mean?

Q. Yes.

WITNESS: No.

Q. How do you know what rent he is bound to pay?

A. By an agreement.

Q. What agreement? Do you mean all you know about the matter is what you read in the ordinance?

A. I know an agreement was drawn up.
Q. All you know is what you read in the ordinance and lease?
A. Yes, sir.
Q. Outside of that you have no knowledge?
A. No, sir.
Q. Do you know whether he pays any rent or not?
A. No; I do not know.
Q. You never collected a dollar of his rent?
A. No.
Q. Do you know under the lease it provides the lease may be terminated at any time with notice?
A. Yes, sir.
Q. The only information you have with reference to that matter is by reading the ordinance and lease.
A. Yes, sir.

Mr. BELL: We object to the testimony of this gentleman as to that point.

Mr. ALLEN: Mr. Moulton, you say the contract was written up in the office?
A. Yes, sir.
Q. Were you familiar with the negotiations or what was going on between Joy and the office?
A. I know he was applying for a lease, and that afterwards the result was a lease was drawn up in accordance with this ordinance and is on file in the office.
Q. You know that from your official position.
A. That is, a copy is on file in our office.
Q. Did you ever see Mr. Joy in the office?
A. Yes, sir.
Q. Did you ever hear any conversation with Mr. Joy?
315 A. I heard the questions spoken of.
Q. In the office?
A. Yes.
Q. While attending to duties of the office?
A. Yes, sir.
Q. What we are getting at, Mr. Moulton, is whether or not, in connection with your official duties there, you have any knowledge which is not derived from the mere reading of the lease itself in the transaction or by the ordinance.
A. I know Mr. Joy occupies that ground for business purposes.
Q. And you have been on the ground and surveyed the boundaries of the lease?
A. Yes, sir.
Q. Did you ever hear Mr. Joy say how much he was paying?

Mr. BELL: We object to that. I do not think it is competent.
COURT: If this witness knows what was paid outside of the written contract he can state, if he knows.
Mr. BELL: He only knows from the lease.
COURT: This witness gives testimony in answer to questions, and

on cross-examination it is developed his information was from the written contract. Now, then, it would be very unjust to the court to say to counsel that testimony should go in. I permitted it to go in on the theory that you gentlemen would show that he got this information outside of the ordinance and outside of the contract.

Mr. BELL: I move to strike out his testimony.

COURT: The motion is sustained.

To which ruling of the court the defendants then and there excepted.

COURT: As to the consideration for the lease stated by the witness, because it appears from the examination of the witness that he obtained his information from the ordinance and from the leases.

316 Mr. ROBERT: He did not object to the question, and therefore it is too late now.

COURT: What the witness said in reference to the consideration paid annually or paid for each period of five years—it was, I believe, $600, $1,200, and $1,800.

Mr. ALLEN: Mr. Moulton, can you get the original lease that is filed in the register's office—you can get a certified copy?

A. Yes.

Mr. ALLEN: I offer in evidence ordinance 5403, under which the last witness testified he made some surveys, entitled An ordinance to open a wharf from Biddle to the northern boundary of the city and Hazel to the southern boundary of the city, approved August 6th, 1864.

Mr. ALLEN: Will you admit in 1864 and after 1855 the northern boundary of the city was at a point north of Buchanan street?

Mr. JOHNSON: We want to object to this ordinance.

COURT: This is to establish a wharf from Biddle street to the northern boundary of the city, a point north of Dock street?

Mr. ALLEN: Yes, sir; the date of the ordinance is 6th of August, 1864.

COURT: What is your objection, Mr. Johnson?

Mr. JOHNSON: It is utterly irrelevant and immaterial for the reason no wharf has ever been there.

COURT: This is the ordinance under which the survey was made that Mr. Moulton testified to?

Mr. ALLEN: Yes; and established monuments in 1883 and 1884.

The objection was overruled.

Said ordinance was then read and is as follows:

(5403.)

An ordinance to establish and open the wharf from Biddle street to the northern boundary of the city and from Hazel street to the southern boundary of the city.

317 Be it ordained by the common council of the city of St. Louis:

SECTION 1. The wharf is hereby established as a public highway for wharf purposes, from the south side of Biddle street to the north-

ern boundary of the city of St. Louis; and from the south side of Hazel street to the southern boundary of the city of St. Louis, the western boundary line of the northern portion of the wharf, as herein established shall commence at a point in the south side of Biddle street at the northeastern corner of city block numbered nineteen; thence northwardly on a line in continuation of the eastern front line of city block number nineteen, to a point which is eighty feet eastwardly from Lewis street, measured on a line at right angles thereto; thence northwardly parallel with Lewis street and eighty feet eastwardly therefrom to the north side of *the* Smith street; thence northwardly to a point in the north side of Florida street, which point is three hundred and seventy-five feet eastwardly from Main or First street; thence northwardly to a point in the south side of East Mound street, which point is three hundred and thirty-seven and a half feet distant eastwardly from said First street; thence northwardly to a point in the north side of East Mound street, which point is three hundred and thirty-five feet distant eastwardly from said First street; thence northwardly to a point in the north side of Lebeaume street, which point is three hundred and thirty-five feet distant eastwardly from said First street; thence northwardly to a point in the south side of Dock street, which point is nine hundred and twelve feet distant eastwardly from said First street; thence northwardly in continuation of the last line, to the north side of Dock street; thence eastwardly along the north line of Dock street produced one hundred and fifty feet; thence northwardly to the northern boundary line of the city of St. Louis, on the line which passes a point in the center of Ferry street, which point is two thousand five hundred
318 feet distant eastwardly from said First street, measured along the center line of said Ferry street. The eastern boundary line of the said northern portion of the wharf, as herein established shall commence at a point in the south line of Biddle street produced eastwardly, two hundred and ten feet distant from the northeastern corner of city block number nineteen, thence northwardly to a point in the north line of Ashley street produced eastwardly, two hundred and thirty feet distant from the western line of the wharf as herein established; thence northwardly to a point in the north line of Smith street produced eastwardly, two hundred and thirty feet distant from the said western line of the wharf; thence northwardly to a point in the north line of East Mound street produced eastwardly, two hundred and sixty feet from the said western line of the wharf; thence northwardly to a point in the northern boundary line of the city of St. Louis, which point is three hundred feet distant eastwardly from the said western boundary line of the wharf. The western boundary line of *of* the southern portion of the wharf as herein established, shall commence at a point in the south side of Hazel street, which point is three hundred feet distant eastwardly at right angles from First or Main street; thence southwardly, parallel to said First street and the three hundred feet distant eastwardly therefrom, to a point in the southern boundary line of Rockpoint addition to the city of St. Louis; thence southwardly

to a point in the southern boundary line of the city of St. Louis, which point is six hundred and sixty feet distant on a course south eighty-one degrees east from the center of the main track of the Iron Mountain railroad. The eastern boundary line of the said southern portion of the wharf as herein established, shall commence at a point in the south line of Hazel street produced eastwardly, which point is five hundred and sixty-five feet eastwardly from said First street; thence southwardly to a point in the center line of
319 Lesperence street, which point is three hundred feet distant eastwardly from the said western line of the wharf; thence southwardly, parallel with the said western line of the wharf and three hundred feet eastwardly therefrom, to the southern boundary line of the city of St. Louis.

SEC. 2. So much of the grounds included within the boundaries of the northern portion of the wharf, as hereinbefore established, as are necessarily occupied by the water works of the city of St. Louis, shall remain in the occupancy of the said water works until the said works shall be removed to some other locality.

SEC. 3. The land commissioner is hereby authorized and instructed to cause the wharf, as hereinbefore established, to be opened according to law.

Approved August 6th, 1864.

I, H. J. Pocock, register of the city of Saint Louis, hereby certify the foregoing to be a true copy of the original, on file in this office, of an ordinance passed by the municipal assembly of the city of Saint Louis "entitled" An ordinance to establish and open the wharf from Biddle street to the northern boundary of the city and from Hazel street to the southern boundary of the city, and numbered 5403.

In testimony whereof I have hereunto set my hand and
[SEAL.] affixed the seal of the city of Saint Louis this 14th day of March, 1896.

H. J. POCOCK, *Register.*

Mr. ALLEN: I desire to introduce and first call your honor's attention to a public act, which was a city charter of the city of St. Louis, of 1870, page 478, and particularly sections one, two, three, five, and six. *Then* I called your honor's attention I did not notice it *is* a public act. I am going to follow that with certain testimony.

320 WALTER B. DRYDEN, being duly sworn on behalf of the defendants, testified as follows:

Direct examination by CHARLES CLAFLIN ALLEN, Esq.:

Q. State your full name.
A. Walter B. Dryden.
Q. What position do you hold?
A. In the city counselor's office.
Q. How long have you held that office?
A. 1877.

Q. Since 1877?

A. Yes, sir.

Q. As such clerk to the city counselor, I will ask you whether or not you have the custody of papers which have been on file in that office.

A. Yes, sir.

Q. And have ever since 1877?

A. Yes, sir.

Q. You hold in your hand some pamphlets; state what they are.

A. Proceedings to open Kennett street—Kennett street from North Market—in 1870.

Q. Now, then, these have been in the possession of the city counselor how long?

A. Since the scheme and charter went into effect. Mr. Bell took possession of the office.

Q. Who put you in charge of these papers?

A. Mr. Bell told me to go up to the city counselor's office and take charge or to take charge of part of the land commissioner——

Mr. ALLEN: Now, if your honor please, I offer in evidence the petition in the proceeding to open Kennett street, entitled City of St. Louis, plaintiff, against a number of defendants, and calling attention to the fact that the name of Martha J. Sweringen appears as a defendant to one of the proceedings.

Mr. BELL: We will object to this paper. This paper seems to be signed by a gentleman by the name of Allison, land commissioner, dated the 5th of July, 1870.

The objection was overruled.

I wish to offer this in evidence in addition to charter of St. Louis of 1870, city ordinance 5393.

321 Mr. BELL: I object to this ordinance 5393.

Objection overruled.

Said ordinance was then read and is as follows:

An ordinance establishing the office of land commissioner and regulating the proceedings thereof.

Be it ordained by the common council of the city of St. Louis:

ARTICLE I.

SECTION 1. There shall be appointed in the same manner as other city officers a land commissioner, whose salary shall be fifteen hundred dollars per annum, and who shall hold his office for three years, and until his successor is duly appointed and qualified, unless sooner removed for good cause.

SECTION 2. He shall ascertain the nature of titles and localities and condition of all landed property owned or rightfully claimed by the city, either in her own right or in trust for others, and shall jointly with the city counselor prosecute and defend, in behalf of the city, all suits, and conduct other legal proceedings involving

the rights of the city in and to any landed property. He shall cause to be made out and preserve copies, duly authenticated, of all deeds, conveyances, title papers and contracts concerning the ownership of such property; also maps and plats of the same. He shall, on the first day of each stated session of the council, or at other times, if required, report to them the condition of the city's interest, hereby committed to his charge, and recommend, at any time, such action on the part of the council, as the public interest in his charge may, in his opinion, require. He shall also perform the duties imposed upon the land commissioner by an act of the General Assembly of the State of Missouri, entitled, "An act supplementary to the several acts incorporating the city of St. Louis, approved January 16th, 1860."

322 SEC. 3. He shall at all times furnish verbal information or written reports, as required by the comptroller, relating to any matters embraced in the duties of his office, to the comptroller.

ARTICLE II.

SECTION 1. Whenever the common council by ordinance, shall order the opening, widening or altering of any street, avenue, alley, wharf or public square, established by ordinance, and it is necessary to take private property for the same, the city engineer shall, under the direction and supervision of the land commissioner, survey and make a plat of the property to be taken, showing the metes and the names of the owners thereof, and also of all the property next adjoining the ground proposed to be taken, with the metes and names of the owners thereof; and the city engineer and assessor shall also furnish the land commissioner with such other plays as he shall require.

SEC. 2. Upon the completion of the plat showing the property necessary to be taken, as aforesaid, for the proposed improvement, the land commissioner shall, after giving six days' notice in the newspaper doing the city printing, forthwith proceed to cause the said property to be condemned, according to the provisions of an act of the General Assembly of the State of Missouri, entitled "An act supplementary to the several acts incorporating the city of St. Louis," approved January sixteenth, eighteen hundred and sixty, and in so doing, all notices, subpœnas, venire, attachments and all processes on behalf of the city, or other parties interested in the proceedings, shall be issued by the land commissioner and signed by him and attested by the city register, under the seal of the city, and shall be served and returned by the city marshall to the land commissioner, according to law.

SEC. 3. In all cases where the city marshall may make return that all the defendants named in the original notice issued in any

323 procedure about to be begun for the opening, widening or altering of any alley, street, avenue, wharf or public square, as aforesaid, are found and served with such notice, the land commissioner shall give further notice, by publication for ten days in two daily ne-spapers printed in the city of St. Louis, to all other parties interested, whether in damages or benefits, that such pro-

ceedings are about to be had, and that all such interested parties may appear and attend to their interests on the day and at the place appointed by the land commissioner.

SEC. 4. The jury shall be sworn by the land commissioner, faithfully and impartially to discharge the duties imposed upon them by the seventh section of the act of the General Assembly of the State of Missouri, entitled "An act supplementary to the several acts incorporating the city of St. Louis," approved January sixteenth, eighteen hundred and sixty.

SEC. 5. The jury shall be impanneled in the hall of the common council, where the evidence shall be heard on either side; and after hearing all the evidence, and examining the ground to be taken, owned by the parties to be charged with damages, or compensation to be assessed, they shall return their verdict to the land commissioner.

SEC. 6. Immediately after the council shall have confirmed the verdict of the jury, and made an appropriation of the sum, if any, awarded to be paid, by the city by the verdict of the jury, it shall be the duty of the land commissioner to render judgment in favor of the city of St. Louis, against the several parties, and against the property charged by the verdict of the jury, for the payment of the damages assessed; and the land commissioner shall also immediately make out a certified abstract or list of said judgments, showing the persons, property and amount, and the *pro rata* cost up to the rendering of the verdict of each judgment, and shall furnish the same to the city comptroller, who shall advertise said list for ten days
324 in one or more newspapers published in the city of St. Louis, notifying all persons against whom and against whose property assessments are made, that they may pay and satisfy the same before execution shall issue at the comptroller's office, and pay the same to the comptroller at any time within thirty days after said notice is inserted; and the comptroller shall receive from such parties as desire to pay the same, all assessments levied against them and against their property, and pay the same into the city treasury, and at the expiration of thirty days the comptroller shall return said list to the land commissioner with his marginal remarks thereon, showing what judgments have been paid and what remains unpaid; and the land commissioner shall then immediately issue executions on all judgments remaining unpaid, with *pro rata* costs for advertising and collecting the same added thereto, directed to the city marshal, whose duty it shall be to collect the same from the owner or owners of the property charged in the execution; and the land commissioner shall file the said abstract or list returned to him by the comptroller, in his office.

SEC. 7. Whenever judgment shall be rendered by the land commissioner for the condemnation of private property for public use, the comptroller is authorized to receive from the owner of property against which benefits and damages have been assessed the excess of the benefits over and above the damages, and judgment shall thereupon be cancelled. All executions for benefits shall be credited

with the amount of damages which may be awarded in favor of the party against whom the execution shall be issued.

SEC. 8. The execution to be issued in each case shall be a special *fieri facias*, and shall be in conformity with the judgment, and shall be returnable to the land commissioner within forty days; and it shall be the duty of the marshal, unless otherwise directed by the land commissioner, to advertise and sell the property charged
325 in the execution, in the manner prescribed for the sale of real estate under execution, by an act of the General Assembly of the State of Missouri, entitled "An act to regulate executions," approved December first, eighteen hundred and fifty-five.

SEC. 9. In every sale under execution, it shall be the duty of the marshal to make a deed to the purchaser, which deed shall be acknowledged before the mayor, and attested by the city register, under the seal of the city, and shall recite the execution, time and place of sale, the name of the purchaser, and the amount of the bid, which deed shall vest in the purchaser such title to the property named in the execution as can be conveyed under the proceedings had.

SEC. 10. The city marshall shall, unless the property described in the execution brings the amount of execution and costs, strike the same off to the city of St. Louis as purchaser thereof, and shall make a deed therefor to the city of St. Louis *to* the same manner as to any other purchaser.

SEC. 11. It shall be the duty of the land commissioner to keep a full and complete record of all proceedings had in the matter of condemning private property for public use, under the provision of this ordinance; and he shall, immediately after the passage of the ordinance confirming the verdict of the jury, file for record in the recorder's office of St. Louis county, the verdict of the jury in each case in the condemnation of private property, with the plat of the same thereto annexed, with the certificate of the clerk of the board of common council, attested by the city register, under the seal of the city thereto attached, and after the same is recorded, he shall file the same in the city register's office.

SEC. 12. The land commissioner shall keep a record of detailed abstracts of the property purchased by the city under executions, and shall also cause all deeds made by the city marshal of
326 St. Louis, as purchaser under this ordinance, to be recorded in said recorder's office, and, after the same are recorded, shall file the same in the city register's office.

SEC. 13. Each juror shall be entitled to receive a fee of one dollar and fifty cents per day for his services.

SEC. 14. The auditor and treasurer shall keep a separate account of all moneys collected and paid into the city treasury and appropriated by ordinance on account of the opening of any street, avenue, alley, wharf or public square. Such account to be styled "street-opening fund."

SEC. 15. Whenever the land commissioner shall furnish to the comptroller the abstract of judgment specified in section six of this

article, he shall take the comptroller's receipt for the gross amount thereof, including the cost charged, and file the same with the auditor, who shall charge the comptroller with such gross amount, and the auditor shall credit the comptroller with all receipts of the treasurer for money paid by him into the city treasury on account of the street-opening fund, and also credit him with the gross amount reported to the auditor by the land commissioner, marked unpaid by the comptroller on each abstract returned by the comptroller to the land commissioner. And it shall be the duty of the land commissioner, immediately on the return of each abstract to him by the comptroller to report to the auditor the gross amount marked unpaid thereon.

SEC. 16. The land commissioner shall also take a receipt from the city marshal for the gross amount of all executions, including costs charged, issued to him for collection, and file the same with the auditor, who shall charge the city marshal with such gross amount, and the auditor shall credit the city marshal with all receipts of the treasurer for moneys paid by him into the city treasury on
327 account of the street-opening fund, and also with the gross amount of executions under which sales and deeds have been made to the city of St. Louis as purchaser. And it is hereby made the duty of the land commissioner to report to the auditor the gross amount of such last-mentioned executions immediately upon the return of the same by the marshal to him.

SEC. *Sec.* 17. The land commissioner shall, in each case of condemnation of private property, after the final return of the city marshal, make report to the common council of the total amount of damages assessed and to be paid; of the amount assessed and to be paid as benefits, of the amount collected and paid into the city treasury; of the amount appropriated by the city; of the amount of the executions under which the city became purchaser, and the amount to be appropriated to provide for a deficiency, if any, in the street-opening fund, and for the liquidation of the damages.

SEC. 18. The land commissioner shall, immediately after the city marshal have returned to him all executions issued in any case of condemnation of private property, make out a certified abstract, following the order of the verdict, showing what assessments have been paid and satisfied, and the manner thereof, and file the same for record in the office of the recorder of deeds for St. Louis county, and at the filing thereof shall cause a note to be entered on the margin of the record of the verdict — which said abstract refers, referring to the record of said verdict.

SEC. 19. No damage shall be paid in any case until the final return of the city marshal to the land commissioner; and six per cent. annual interest shall be allowed on all amount of damages not paid within six months after the confirmation of the verdict of the jury in each case, such interest to commence at the expiration of said six months.

SEC. 20. All damages and costs incurred and expenditures
328 had under the provisions of this ordinance shall be charged to said street-opening fund, and no money shall be paid on

account thereof, except upon the warrant of the auditor, drawn on the treasurer, upon the requisition of the land commissioner; and every such requisition shall give all particulars as to the name of the claimant, and the nature and the amount of the claim; but, in case there is no money to the credit of the street-opening fund in the city treasury, the auditor may draw his warrant for the payment of jurors' fees, chargeable to the contingent fund.

SEC. 21. The land commissioner shall keep a record in detail of all requisitions made by him on the auditor under the provisions of this ordinance.

SEC. 22. Upon the payment of damages assessed for any property taken, thereupon the city engineer, shall forthwith proceed to take possession of the property for the city, and remove all buildings and improvements and obstructions therefrom, in conformity with existing ordinances, and any expenses incurred thereby shall be charged to the street-opening fund; and if any such buildings or improvements by the verdict of the jury belong to the city, they shall, provided the value thereof, in the opinion of the city engineer, exceeds one hundred dollars, be sold to the highest bidder for removal after ten days' advertisement in two newspapers printed in the city; and all moneys arising from the sale of such improvements shall be paid into the city treasury to the credit of the street-opening fund.

SEC. 23. The land commissioner, in all cases where he shall ascertain that streets, avenues, alleys, or wharves, have been dedicated to public use, and have not been opened, shall report the fact to the mayor; and it shall be the duty of the city engineer to proceed to open the same, and remove all obstructions therefrom, upon his receiving written directions signed by the mayor and land commissioner.

329 ARTICLE III.

SECTION 1. Whenever any street or alley in the city of St. Louis shall be declared a nuisance by the board of health, the clerk of said board shall immediately notify the land commissioner of such fact.

SEC. 2. The land commissioner shall thereupon immediately summons a jury of six disinterested citizens of this city, to inquire into the fact of the existence of the alleged nuisance. As soon as the said jury have been qualified, it shall proceed to the locality of said nuisance and view the same, and return a written verdict thereupon to the land commissioner, who shall transmit the same to the common council.

SEC. 3. Each juror shall be entitled to receive a fee of one dollar and fifty cents per day for his services.

SEC. 4. All expenses incurred in holding inquests herein authorized, shall be charged to appropriations for streets and alleys, and the auditor shall issue his warrant for the same upon the certificate of the land commissioner.

SEC. 5. The city marshal — serve all summons and other process of the land commissioner authorized under this article.

Approved August 2, 1864.

I, H. J. Pocock, register of the city of Saint Louis, hereby certify the foregoing to be a true copy of the original, on file in this office, of an ordinance passed by the municipal assembly of the city of Saint Louis entitled "An ordinance establishing the office of land commissioner and regulating the proceedings thereof," and numbered 5393.

[SEAL.] In testimony whereof I have hereunto set my hand and affixed the seal of Saint Louis this 14th day of March, 1896.

H. J. POCOCK, *Register.*

330 Q. Then ordinance 5872, certified copy.

Mr. BELL: We object to ordinance 5872.

Mr. ALLEN: It is entitled An ordinance establishing a land commissioner, and the regular proceedings approved, July 6th, 1866.

Objection overruled.

Said ordinance was then read and is as follows:

(No. 5872.)

An ordinance establishing the office of land commissioner and regulating the proceedings thereof.

Be it ordained by the city council of the city of St. Louis:

SECTION 1. There shall be appointed, at the same time and in the same manner as other city officers, a land commissioner, whose salary shall be fifteen hundred dollars per annum, and who shall hold his office for two years, and until his successor is duly appointed and qualified, unless sooner removed for good cause.

SEC. 2. He shall ascertain the nature of titles and localities, and condition of all landed property owned or rightfully claimed by the city, either in her own right or in trust for others, and shall, jointly with the city counselor, prosecute and defend, in behalf of the city, all suits, and conduct other legal proceedings involving the rights of the city in and to any landed property. He shall cause to be made out and preserve copies, duly authenticated, of all deeds, conveyances, title papers and contracts concerning the ownership of such property, also maps and plats of the same. He shall, on the first day of each stated session of the council, or at any other times, if required, report to them the condition of the city's interest hereby committed to his charge and recommend at any time, such action on the part of the council, as the public interest in his charge may, in his opinion, require. He shall also perform the duties imposed upon the land commissioner by an act of the General Assembly of the State of Missouri, entitled "An act to revise the city char-
331 ter of the city of St. Louis," adopted March 19th, 1866.

SEC. 3. Upon the completion of the plat showing the property necessary to be taken, as aforesaid, for the proposed improvement, the land commissioner shall, after giving six days' notice in the newspapers doing city printing, forthwith proceed to cause the said property to be condemned, according to the provisions of an act of

the General Assembly of the State of Missouri, entitled "An act to revise the city charter of the city of St. Louis," approved March 19th, 1866, and in so doing all notices, subpœnas, venires, attachments, and all proceedings on behalf of the city or other parties interested in the proceedings, shall be issued by the land commissioner and signed by him and attested by the city register, under the seal of the city, and shall be served and returned by the city marshal to the land commissioner, according to law.

SEC. 4. The jury shall be sworn by the land commissioner, faithfully and impartially to discharge the duties imposed upon them by the fourth section of article eight of an act of the General Assembly of the State of Missouri, entitled "An act to revise the city charter of the city of St. Louis," approved March 19th, 1866.

SEC. 5. The jury shall be impanneled in the hall of the board of delegates, where evidence shall be heard on either side, and after hearing all the evidence, and examining the ground to be taken, owned by the parties to be charged with damages, or compensation to be assessed, they shall return their verdict to the land commissioner. All ordinances and parts of ordinance- inconsistent with this ordinance are hereby repealed.

Approved July 7, 1866.

I, H. J. Pocock, register of the city of Saint Louis, hereby certify the foregoing to be a true copy of the original on file in this office
of an ordinance passed by the municipal assembly of the city
332 of Saint Louis, entitled "An ordinance establishing the office of land commissioner and regulating the proceedings thereof," and numbered 5872.

In testimony whereof I have hereunto set my hand
[SEAL.] and affixed the seal of the city of Saint Louis this 14th day of March, 1896.

H. J. POCOCK, *Register.*

Then I offer ordinance 6919.

Mr. BELL: We object to ordinance 6919 on the same ground.

Objection overruled.

Said ordinance was then read and is as follows:

(6919.)

An ordinance amendatory of ordinance- number five thousand three hundred and ninety-three and five thousand eight hundred and seventy-two, establishing the office of land commissioner and regulating the proceedings thereof.

Be it ordained by the city council of the city of St. Louis:

SECTION 1. Section five of ordinance number five thousand three hundred and ninety-three and section five of ordinance number five thousand eight hundred and seventy-two are hereby repealed.

SECTION 2*d*. The jury shall be impannelled in the office of the land commissioner, where the evidence shall be heard on either side; and, after hearing all the evidence and examining the ground to be

taken, owned by the parties to be charged with damages of compensation to be assessed, they shall return their verdict to the land commissioner.

SECTION 3. The city register shall procure for the office of the land commissioner the necessary furniture.

Approved June 25th, 1869.

I, H. J. Pocock, register of the city of Saint Louis, hereby certify the foregoing to be a true copy of the original on file in this office of an ordinance passed by the municipal assembly of the city
333 of Saint Louis, entitled "An ordinance amendatory of ordinance- number five thousand three hundred and ninety-three and five thousand eight hundred and seventy-two," establishing the office of land commissioner, and numbered 6919.

In testimony whereof I have hereunto set my hand and
[SEAL.] affixed the seal of the city of Saint Louis this 14th day of March, 1896.

H. J. POCOCK, *Register.*

Mr. BELL: We object to ordinance 7110 on the same ground.

Objection overruled.

Mr. ALLEN: An ordinance establishing and opening Kennett Str. from North Market street, approved January 26th, 1870.

Said ordinance was then read and is as follows:

(7110.)

An ordinance to establish and open Kennett street from North Market street to Ferry street.

Be it ordained by the city council of the city of St. Louis:

SECTION 1. Kennett street is hereby established as a public highway one hundred feet wide, from North Market street to Ferry street, as follows: From North Market street to Dock street the east line to coincide with the east line as laid off in North St. Louis from Dock street to Buchanan street, the west line a straight linear continuation southwardly of its course as laid off in Buchanan's addition, thence from Buchanan street to Salisbury street, the west line to coincide with the west line as at present established, thence northwestwardly to Ferry street in a straight line to connect with the west line of the first street in Buchanan's addition, east of Gingrass creek.

SEC. 2. The land commissioner is hereby authorized and instructed to cause said Kennett street to be opened according to law.

Approved January 26, 1870.

334 I, H. J. Pocock, register of the city of Saint Louis, hereby certify the foregoing to be a true copy of the original on file in this office of an ordinance passed by the municipal assembly of the city of Saint Louis, entitled "An ordinance to establish and open Kennett street from North Market street to Ferry street," and numbered 7110.

In testimony whereof I have hereunto set my hand and
[SEAL.] affixed the seal of the city of Saint Louis this 14th day of March, 1876.

H. J. POCOCK, *Register.*

I offer in evidence ordinance 7450.

Mr. BELL: I object to ordinance 7450 on the same ground.

Objection overruled.

Said ordinance was then read and is as follows:

(7450.)

An ordinance confirming the verdict of the jury in the matter of the opening of Kennett street from North Market street to Ferry street.

Be it ordained by the city council of the city of St. Louis:

Be it ordained by the city council of the city of St. Louis:

SECTION 1. The verdict of the jury in the matter of the opening of Curran street from Carroll street to Park avenue as established by ordinance seven thousand one hundred and fifty-three, approved February fourth, eighteen hundred and seventy, reported to the city council November fourteenth eighteen hundred and seventy is hereby confirmed.

SEC. 2. The sum of two hundred and two dollars and five cents is hereby set apart out of the street-opening fund and appropriated to pay the amount assessed by said jury against the city of St. Louis in opening the said Curran street between the points named.

335 I, H. J. Pocock, register of the city of Saint Louis, hereby certify the foregoing to be a true copy of the original on file in this office of an ordinance passed by the municipal assembly of the city of Saint Louis entitled "An ordinance confirming the verdict of the jury in the matter of the opening of Kennett street from North Market street to Ferry street," and numbered 7450.

In testimony whereof I have hereunto set my hand and
[SEAL.] affixed the seal of the city of Saint Louis this 14th day of March, 1896.

H. J. POCOCK, *Register.*

I again offer the petition and summons for the opening of Kennett street from North Market to Ferry street, entitled City of St. Louis *vs.* James McGuire and others, issued by R. B. Allison, land commissioner, July 5th, 1870.

Mr. BELL: I again object to the petition.

Objection overruled.

Petition and summons were then read and are as follows:

CITY OF ST. LOUIS, Plaintiff,
against
LACLEDE IRON MANUFACTURING CO., CHAS. LAND, LOUIS W. BUSCHMANN, James McGuire, Lafayette Parker, Tardy Manning, Sarah A. Ihling, Walter Lecy, Marshall Brotherton, Marshall Brotherton and John A. Ferguson, Solon Humphreys, Hugo Deibel, Geo. and H'y Brandon, Samuel I. P. Anderson, John Kraft, Fred Kraft, Clemens Maise, Wm. Brass, Geo. Fischer, Phil. Kraft *et al.*, Merchants' Bank of St. Louis, David Brancoiner, Erastus Wells, H. S. Parker, Hill, Lenon and Co., Lambert Walther, Catherine Koehler, Cath. Kingsland, Wm. G. & R. B. Clark and James B. Hill, Phil. Kingsland, James B. Hill, Leroy Kingsland, Margareth
336 Thomas, Barton Bates, M. Brotherton, John Withers, Daniel McAteer and Mich. Cassiday, John Maguire, Elvise P. Kayser, Parker and Anderson, Ch. R. Anderson, Hewey S. Parker and Ch. R. Anderson, E. Mallinckrodt, Gustave, Edward, and Otto Mollinckrodt, Robert Barth, John C. Schreiner, Nicholas Hack, Mary Thomas, Chas. H. Buck and Wiley S. Wright, N. A. Destrehan, E. C. Angeltodt, Nelson Cole, Samuel McCutchon, Louis Espenschild, Christ. F. Liebke and Chas. H. Schrage, Mary B. Scott, Julia Crosby, Sallie B. McPheeters, Liebke and Schrage, Lessees; Mary B. Scott, Liebke and Schrage, Lessees; Louis Espenschild, Christ. F. Liebke and Chas. H. Schrage, Liebke and Schrage, Lessees; Christ. F. Liebke and Chas. H. Schrage, Louis Espenschild *et al.*, Ben. M. Lewis, Sallie B. McPheeters, Mary L. Tyler, Louis Espenschild and Others; Liebke and Schrage, Lessee-; Mary L. Tyler, Andrew Keil, Lessee; Mary L. Tyler, Ferd. Walters, Lessee; Martha Sweringen, Mary Digges, Lessee; Martha Sweringen, Jacob Schreiser, Lessee; Martha Sweringen, Albert Urban, Lessee; Anna Austin, Rachel A. Welles, Fannie N. Manson, Martha J. Sweringen, Eliza A. Dean, Cornelia F. Tilford, Wm. H. Glasgow, Joseph Gartside, John S. McCune, Napolen Mullikin, Samuel Gaty, Wm. H. Lackland and Alex. Martin, Wm. C. Taylor, Elias Hasselwander, Edw. Heitzeberg, John S., Alfred, and W. Trigg, Robert Cook, Chas. Gage, John Gage, Martha A. Wills (Henry Overstolz, Fred. Schulenberg and Adolphus Boeckeler, Lucy V. Semple Ames, Lessee); Orleand Schaumberg, Lucy V. Semple Ames, Lessee; Isaac Walker's Est., Benjamin W. Hill, Louis Arbeth, I. Newhiusetr, Sylvia Newhouse, Tr.; Mullanphy Emigrant Relief Fund, City of St. Louis, North Missouri Railroad Co., Christopher Crone, Wm. S. Harvey, H. W. Henghaus, Est. Chauncey Staples, Wm. M. Pherson, M. A. Pendleton, Arthur Barrett, Martha S. Sweringen and Alexander W. Mitchell, Est. Thomas Austin, Defendants.

337 The above-named parties, defendants, and all others interested in the property proposed to be taken and in the improvements to be made are hereby notified that proceedings will be had by the land commissioner of the city of St. Louis, in accordance with the provisions of "An act to revise the charter of the city of St. Louis," approved March 4th, 1870, and revised city ordinance No.

5393, approved August 2nd, 1864, styled "An ordinance establishing the office of land commissioner and regulating the proceedings thereof," and city ordinance No. 5872 and city ordinance No. 6919, at the office of the land commissioner, in the city of Saint Louis, on the eight day of September, A. D. 1870, commencing at ten o'clock a. m. of that day and continuing at the same place and at such times as then and thereafter may be appointed for the purpose of causing private property to be condemned for public use in order to open Kennett street from North Market street to Ferry street under city ordinance No. 7110, as said property is designated and described in the official survey and plat of said Kennett street made by the city engineer, dated the 1st day of June, 1870, when a jury will be empanneled and the actual value of the land proposed to be taken will be ascertained and the damages and benefits assessed against and for the city and also against and for all persons whose property is benefitted or taken by said Kennett street being opened as aforesaid.

Given under my hand, at the city of St. Louis, this *this* [SEAL.] 5th day of July, A. D. 1870.

R. B. ALLISON,
Land Commissioner.

Attest: FRE-. W. FUCHS,
City Register.

I offer the return of the city marshal, Francis Romier, by J. E. Gerichter, D. C. M., and A. Dreifus, on the back of the petition and summons.

Mr. BELL: We object to the report of the marshal on the same grounds.

Objection overruled.

Said return of said marshal was then read and is as follows:

338 Executed the within writ in the city of St. Louis this 13th day of July, 1870, by having personal service on the following-named defendants, viz., Chas. Gage, John Gage, John J., Alfred, & Wm. Triggs, John C. Shreimer, Mary Diggs, A. Keil, Ferdinand Walters, Liebke & Schrage, Nicholas Hash, Jacob Schreimer, Gustave, Otto, and Edward Mallinckroth, Hill, Lemon & Co., Wm. G. R. B. Clark, James B. Hill, Fred. Kraft, John Kraft, Hugo Deibel, Clemens Meise, Lafayette Parker, Taray Manning, Philip Kraft, Marshall Brotherton, J. S. Ferguson; also by leaving a true copy of the same at the usual place of abode of the within-named defendants with a member of their respective families over the age of fifteen years: Urban Obest, Laclede Iron Works, with E. A. Richerson, sup't; Wm. Brass, Lambert Walters, Louis Espenschild.

FRANCIS ROMER,
City Marshal.
J. C. GERICHTEN, *D. C. M.*
A. DRCIFUS, *Deputy.*

Also on this 14th July by having personal service on the following defendants: Napolen Mulliken, Wm. B. Lewis, Barton Bates, Chas. L. and W. Buchanan, Buck and Wright, George and Harvey

Brandon; also by leaving true copy of the same at the usual place of abode of the within-named defendants with a member of their respective famil-es over the age of fi-teen years: Catherine Kingsland, Joseph Weil, Philip Kingsland, S. J. P. Anderson; also by leaving a true copy of the same at the office of the North Missouri Railroad Co. with Barton Bates, pres't of the North Missouri Railroad Company, and W. L. C. Brey, secretary of the Mullanphy Im-igrant Relief Fund, at the office of Mullanphy Im-igrant Relief Fund, no other chief officer of the said Mullanphy Im-igrant Relief Fund being found in the city of St. Louis.

FRANCIS ROMER,
City Marshal.
J. C. GERICHETER.

339 Also by having had personal service this 15th day of July, 1870, on the following-named defendants: D. Braneviner, Nelson Cole, Robert Barth, Wm. H. Lackland, Alexander Martin, City of St. Louis, with the executive officer of the city of St. Louis, Mayor Nathan Cole; John S. McCune, Wm. McPherson, Samuel Gaty, Leroy Kingsland, Ed. Haitzbury, Daniel McAlthier, and Mich. Cassiday; also by leaving a true copy of the same at the office of the Merchants' Bank of St. Louis, with S. C. Yeatman, cashier of said bank, no other chief officer of said bank being found in the city of St. Louis; also by having personal service on the 16th day of July, 1870, — Henry S. Parker and Chas. R. Anderson, Schulenburg and Boeckler, Joseph Gqrtside (drfs.).

Also by *a* leaving a true copy of the same, this 18th day of July, 1870, at the usual place of abode of the within-named defendants, Henry Coerstalz, Martha Sweringen, with a member of their family over the age of fifteen years.

Also by having personal service this 18th day of July, 1870, on the following-named defendants: Erastus Wells, John McGuire, Arthur Barrett. After due and diligent search the following-named defendants were not found: E. C. Angelroth, Chansey Staples, C. F. Tilford, Wm. H. Glasgow, Lucy V. Semple Ames, Geo. Fischer, Mary B. Scott, Martha Wills, M. A. Pendleton, Robert Cook, Thos. Austin, Fanny N. Munson, Christopher Crone, Mary Thomas, Louisa Arlot, Anna Austin, Sarah A. Ihling, Julia Crosby, N. A. Destrahan, Sallie B. McPheeters, Walter Lacy, S. Newhouse, Orleana Schamburg, Mary L. Tyler, S. McCutchen, Benj. W. Hill, H. W. Venghouse, Sylvia Newhouse, Elias Hasselwender, Eliza A. Dean, Rachel A. Wells, Alvise P. Kieser, John Withers, Margaret Thomas, Catherine Koehler, Solon Humphries, Isaac Walker's Est., Wm. C. Taylor, Jas. McGuire.

340 FRANCIS ROMER,
City Marshal,
By J. C. GERICHTER, *D. C. M.,*
By A. DREIFUS, *Deputy.*

Mr. ALLEN: I also offer in evidence certain other papers to certain other defendants. I offer the record — the verdict of the jury in the

matter of opening Kennett street from North Market and the proceedings before the land commissioner.

Mr. BELL: We object to these.

Mr. ALLEN: We offer in evidence the findings here concerning the damages to different persons, calling especial attention to those persons whose property is shown upon the plat conveying this property as being east of 1st street, city block 308, and in front of the property alleged claimed by the plaintiff. We also offer in evidence the assessment of benefits. We offer the whole proceedings, plat and all.

COURT: All objections are overruled.

We offer this paper to show the assessment of ben-fits, including the assessment of benefits to Martha J. Sweringen for property in city block 308 E.

Mr. BELL: We object to that as immaterial, the same as the other.

COURT: Objection overruled.

(For which see verdict hereinafter inserted at page 377 of this transcript).

Mr. ALLEN: I call attention to the fact that at the end of the assessment and benefits on the paper it appears as follows:

Said proceedings and plats were then read and exhibited in evidence and are as follows:

CITY OF ST. LOUIS, Plaintiff,

against

LACLEDE IRON MANUFACTURING CO., CHAS. LAND, LOUIS W.
341 Buschmann, James McGuire, Lafayette Parker, Tardy Manning, Sarah A. Ihling, Walter Lecy, Marshal Brotherton, Marshall Brotherton and John S. Ferguson, Solon Humphreys, Hugo Deibel, Geo. and H'y Brandon, Samuel I. P. Anderson, John Kraft, Fred. Kraft, Clemens Maise, Wm. Brass, Geo. Fischer, Phil. Kraft *et al.*, Merchants' Bank of St. Louis, David Branconier, Erastus Wells, H. S. Parker, Hill, Lemon & Co., Lambert Walthers, Catherine Koehler, Cath. Kingsland, Wm. H. & R. B. Clark and James B. Hill, Phil. Kingsland, James B. Hill, Leroy Kingsland, Margareth Thomas, Barton Bates, M. Brotherton, John Withers, Daniel McAteer and Mich. Cassiday, John Maguires, Eloise P. Kayser, Parker and Anderson, Ch. R. Anderson, Henry S. Parker and Ch. R. Anderson, E. Mullinckrodt, Gustave, Edward, and Otto Mollinckrodt, Robert Barth, John C. Schreimer, Nicholas Hack, Mary Thomas, Chas. H. Buch and Wiley S. Wright, W. A. Destrehan, E. C. Angelrodt, Nelson Cole, Samuel McCutchon, Louis Espenschild, Christ. F. Liebke and Chas. H. Schrage, Mary B. Scott, Julia Crosby, Sallie B. McPheeters, Liebke & Schrage, Lessees; Mary B. Scott, Liebke & Schrage, Lessees; Louis Espenschild, Christ. F. Liebke and Chas. H. Schrage, Liebke & Schrade, Lessees; Christ. F. Liebke and Chas. H. Schrage, Louis Espenschild *et al.*, Ben. M. Lewis, Sallie B. McPheters, Mary L. Tyler, Louis Espenschild and Others; Liebke and Schrage, Lessees; Mary L. Tyler, Andrew Keil, Lessee; Mary L. Tyler, Ferd. Walters, Lessee; Martha Sweringen, Mary Digges, Lessee; Martha Sweringen, Jacob Schreiner, Lessee; Martha Sweringen, Obert Urban,

Lessee; Anna Austin, Rachel A. Welles, Fannie N. Manson, Martha J. Sweringen, Eliza A. Den, Comenlia F. Talford, Wm. H. Glasgow, Joseph Gartside, John S. McCune, Napolen Milliken, Samuel Gaty, Wm. H. Lackland and Alex. Martin, Wm. C. Taylorm, Elias Hassenwander, Edw. Heiteberg, John S. Alfred and W. Trigg, Robert Cook, Chas. Gage, John Gage, Martha A. Wills (Henry Overstolz, Fred Schulenberg and Adolphus Boeckler, Lucy V. Semple Ames, Lessee); Orlean Schamberg, Lucy V. Semple Ames, Lessee; Isaac Walker's Est., Benjamin W.
342 Hill, Louis Arleth, I. Newhouse, Tr.; Sylvia Newhouse, Tr.; Mullanphy Emigrant Relief Fund, City of St. Louis, North Missouri Railroad Co., Christopher Crone, Wm. S. Harvey, H. W. Venghaus Est., Chancey Staples, Wm. M. McPherson, M. A. Pendleton, Arthur Barrett, Martha S. Sweringen and Alexander W. Mitchell, Est. Thomas Austin, Defendants.

The above-named parties, defendants, and all others interested in the property proposed to be taken and in the improvements to be made, are hereby notified that proceedings will be had by the land commissioner of the city of St. Louis, in accordance with the provisions of "An act to revise the charter of the city of St. Louis," approved March 4th, 1870, and revised city ordinance No. 5393, approved August 2nd, 1864, styled "An ordinance establishing the office of land commissioner and regulating the proceedings thereof," and city ordinance No. 5872, and city ordinance No. 6919, at the office of the land commissioner, in the city of St. Louis, *and* the eight day of September, A. D. 1870, commencing at ten o'clock a. m. of that day, and continuing at the same place and at such times as then and thereafter may be appointed, for the purpose of causing private property to be condemned for public use in order to open Kennett street from North Market street to Ferry street, under city ordinance No. 7110, as said property is designated and described in the official survey and plat of said Kennett street made by the civil engineer and dated the 1st day of June, 1870, when a jury will be empanneled and the actual value of the land proposed to be taken will be ascertained and the damages and benefits assessed against and for the city, and also against and for all persons whose property is benefitted or taken *taken* by said Kennett street being opened, as aforesaid.

[SEAL.] Given under my hand, at the city of St. Louis, this 5th day of July, A. D. 1870.
343

R. B. ALLISON,
Land Commissioner.

Attest: FRED W. FUCHS,
City Register.

Executed the within writ in the city of St. Louis this 13th day of July, 1870, by having personal service on the following-named defendants, viz: Chas. Gage, John Gage, John J., Alfred, and Wm. Triggs, John C. Schreiner, Mary Diggs, A. Keil, Ferdinand Walters, Liebke and Schrage, Nicholas Hash, Jacob Schreiner, Gustave Otto,

and Edward Mallinckroth, Hill, Lemon & Co., Wm. G. R. B. Clark, James B. Hill, Fred Kraft, John Kraft, Hugo Deibel, Clemence Meise, Lafayette Parker, Fardy Manning, Philip Kraft, Marshal Brotherton, J. S. Ferguson; also by leaving a true copy of the same, at the usual place of abode of the within-named defendants, with a member of their respective families over the age of fifteen years:

Urban Orbest, Laclede Iron Works, with E. A. Richardson, sup't; Wm. Brass, Lambert Walters, Louis Espenschild.

FRANCIS ROMER, *City Marshal*,
J. C. GERICHTEN, *D. C. M., and*
A. DREIFUS, *Deputy*.

Also, on this 14th day of July, by having personal service on the following defendants: Napoleon Milliken, Wm. B. Lewis, Barton Bates, Chas. Land, W. Buchanan, Buck & Wright, George and Henry Brandon; also by leaving true copy of the same, at the usual place of abode *by* the within-named defendants, with a member of their respective families over the age of fifteen years: Catherine Kingsland, Joseph Weil, Philip Kingsland, S. J. P. Anderson.

Also by leaving a true copy of the same at the office of the North Missouri Railroad Co., with Barton Bates, pres't of the North Missouri Railroad Company, and W. L. C. Brey, secretary of the Mullanphy Im-igrant Relief Fund, at the office of Mullanphy Im-igrant Relief Fund, no other chief officer of the said Mullanphy
344 Im-igrant Relief Fund being found in the city of St. Louis.

FRANCIS ROMER,
City Marshal.
J. C. GERICHTEN.

Also by having had personal service this 15th day of July, 1870, on the following-named defendants: F. D. Brancoiner, Nelson Cole, Robert Barth, Wm. H. Lackland, Alexander Martin, City of St. Louis, with the executive officer of the city of St. Louis, Mayor Nathan Cole; John S. McCune, Wm. McPherson, Samuel Gaty, Leroy Kingsland, Ed. Heitzberg, Daniel McAlthier, and Mich. Cassiday.

Also by leaving a true copy of the same at the office of the Merchants' Bank of St. Louis with S. C. Yeatman, cashier of said bank, no other chief officer of said bank being found in the city of St. Louis.

Also by having personal service on the 16th day of July, 1870, — Henry S. Parker and Chas. R. Anderson, Schelenberg and Boeckler, Joseph Gertside (Drfs.).

Also by leaving a true copy of the same this 18th day of July, 1870, at the usual place of abode of the within-named defendants, Henry Overstolz, Martha Sweringen, with a member of their families over the age of fifteen years.

Also by having personal services this 18th day of July, 1870, on the following-named defendants: Erastus Wells, John McGuire, Arthur Barrett. After due and dil*l*igent search the following-named defendants were not found: E. C. Angelrodt, Chancy Staples, C. F.

Tilford, Wm. H. Glasgow, Lucy V. Semple Ames, Geo. Fisher, Mary B. Scott, Martha A. Wills, M. A. Pendleton, Robert Cook, Thos. Austin, Fannie M. Manson, Christopher Crone, Mary Thomas, Louisa Arlot, Anna Austin, Sarah A. Ihling, Julia Crosby, N. A. Destrehan, Sallie B. Pheeters, Walter Lacy, S. Newhouse, Orleana Schaumberg, Mary L. Tyler, S. McCutchon, Benj. W. Hill, H. W. Venhouse, Silvia Newhouse, Elias Hasselwender, Eliza A. Dean, Rachel A. Wells, Eloise P. Keiser, John Withers, Margaret
345 Thomas, Catherine Koehler, Solon Humphries, Isaac Walkers, Est. Wm. C. Taylor, Jas. McGuire.

FRANCIS ROMER,
City Marshal,
By J. C. GERICHTEN, *D. C. M.*
A. DREIFUS, *Deputy.*

OFFICE OF THE LAND COMMISSIONER,
ST. LOUIS, *Jan.* 28, 1870.

To all *to* whom it may concern:

Notice is hereby given that the undersigned will forthwith proceed to cause Kennett street to be opened *to* from North Market street to Ferry street, as said Kennett street is established by city ordinance No. 7110, *on* accordance with the provisions of existing laws and ordinances.

R. B. ALLISON,
Land Commissioner.

STATE OF MISSOURI, }
County of St. Louis. }

Personally appeared before the undersigned, a notary public within and for the said county of St. Louis, Henry G. Paschall, who, being duly sworn, deposeth and saith that the annexed advertisement was published in the "Missouri Republican," a newspaper printed and published in the city and county of St. Louis, State of Missouri, of which he is printer, for six times, the first insertion being on the twenty-ninth day of January, 1870, and the last insertion on the third day of February, 1870, as follows:

No. 29, Jan. 29, 1870.
30, 30,
31, 31,
32, Feb. 1,
33, 2,
34, 3,

HENRY G. PASCHALL.

346 Sworn to and subscribed before me this fourth day of February, 1870.

In testimony whereof I have hereunto set my hand and affixed my notarial seal, at office, in St. Louis, the day and year
[SEAL.] last above written.

D. G. JONES,
Notary Public, St. Louis County, Mo.

Printer's fee..... .66
Affidavit ..... .50

$1.16

Bureau des Land-Commissärs,
St. Louis, 28. Januar 1870.

An Alle, die es betrifft.

Es wird hiermit bekannt gemacht, daß der Unterzeichnete sofort Schritte thun wird, die Kennett Straße von der North Market Straße nach der Ferry Straße eröffnen zu lassen, wie genannte Kennett Straße ausgelegt wurde nach Vorschrift der Stadtverordnung Nr. 7110, gemäß den Bestimmungen der bestehenden Gesetze und Verordnungen.

R. B. Allison,
Landcommissär.

29. n. v. tg.

STATE OF MISSOURI, } ss:
County of St. Louis, }

Personally appeared before the undersigned (a notary public within and for the county of St. Louis) Carl Daeuzer, who, being duly sworn, deposeth and saith that the annexed advertisement was published in the "St. Louis Neuer Auzeizer des Westen's," printed and published within the said county and State (the newspaper of which he is the printer), for six times, the first insertion being on the twenty-ninth day of January, 1870, and the last insertion on the third day of February, 1870, as follows:

347

Jan. 29, 1870.
30, 1870.
31, 1870.
Feb. 1, 1870.
2, 1870.
3, 1870.

C. DAEUZER.

Sworn to and subscribed before me this second day of March, 1870.

CHARLES F. BLATTAN,
[SEAL.] *Notary Public.*

Printer's fee..... $2.25
Affidavit ..... .50

$2.75

OFFICE OF THE LAND COMMISSIONER,
ST. LOUIS, *June 29th*, 1870.

To all *to* whom it may concern:

Notice is hereby given that the undersigned will forthwith proceed to cause Kennett street to be opened from North Market to Ferry street, as said Kennett street is established by city ordinance

No. 7110, in accordance with the provisions of existing laws and ordinances.

R. B. ALLISON,
Land Commissioner.

348 STATE OF MISSOURI, } ss:
County of St. Louis, }

Personally appeared before the undersigned (a notary public within and for the county of St. Louis) Henry G. Paschall, who, being duly sworn, deposeth and saith that the annexed advertisement was published in the "Missouri Republican" (printed within the said county and State, the newspaper of which he is one of the publishers) for six times, the first insertion being on the thirteenth day of June and the last insertion on the sixth day of July, 1870, as follows:

1st time, June 30.
2nd time, July 1.
3rd time, " 2.
4th time, " 3.
5th time, " 4.
6th time, " 6.

HENRY G. PASCHALL.

Sworn to and subscribed before me this thirteenth day of July, 1870.

[SEAL.]

E. G. JONES,
Notary Public, St. Louis Co.

Printer's fee	.66
Affidavit	.50
	$1.16

Bureau des Land-Commissärs, }
St. Louis, 29. Juni 1870. }

An Alle, die es betrifft.

Es wird hiermit bekannt gemacht, daß der Unterzeichnete sofort Schritte thun wird, die Kennett Straße von der North Market Straße nach der Ferry Straße eröffnen zu lassen, wie besagte Kennett Straße ausgelegt wurde nach Vorschrift der Stadtverordnung Nr. 7110, gemäß den Bestimmungen der bestehenden Gesetze und Verordnungen.

R. B. Allison,
Landcommissär.

30. j. n. u.

549 STATE OF MISSOURI, } ss:
County of St. Louis, }

Personally appeared before me, the undersigned, a notary public within and for the county aforesaid, Theodor Plate, one of the publishers of the Westliche Post, of the State and county aforesaid, who, being duly sworn, deposeth and saith that the annexed advertisement notice, opening Kennett street from North street to Ferry street, was

published in the Westliche Post the time below specified, on the following days and in the following numbers, viz:

June 30, 1870, No. 152.
July 1, 1870, No. 153.
July 2, 1870, No. 154.
July 3, 1870, No. 27.
July 4, 1870, No. 155.
July 6, 1870, No. 156.

THEODOR PLATE.

Sworn to and subscribed before the undersigned this eight day of September, 1870.

[SEAL.]

OSCAR HOEFER,
Notary Public.

Printer's fee	$3.15
Affidavit	.50
Received payment.	$3.65

Notiz an alle Personen,

beeinträchtigt oder begünstigt durch die Eröffnung der Kennett Straße, von der North Market Straße bis zur Ferry Straße, gemäß Stadtverordnung Nr. 7110.

Stadt St. Louis, Klägerin gegen

die

350 The Laclede Iron Manufacturing Company, Chas. Land, Louis W. Buschman, James McGuire, Lafayette Parker, Tardy Manning, Sarah A. Ihling, Marshall Brotherton, Marshall Brotherton and John S. Ferguson, Solon Humphreys, Hugo Deibel, Geo. and Henry Brandon, Samuel J. P. Anderson, John Kraft, Fred. Kraft, Clemens Matse, Wm. Brass, Geo. Fisher, Phil. Kraft *et al.*, Merchants' Bank of St. Louis, David Brancoiner, Erastus Wells, H. C. Parker, Hill, Lemon & Co., Lambert Walther, Catherine Kingsland, Wm. C. & R. B. Clark, and James B. Hill, Phil Kingsland, James B. Hill, Leroy Kingsland, Margareth Thomas, Barton Bates, John Withers, Daniel McAteer, and Michael Cassiday, John Maguire, Elvise B. Kaiser, Parker & Anderson, Charles R. Anderson, C. Mallinckrodt, Gustav, Edward, Otto Mallinckrodt, Robert Barth, John C. Schreiner, Nicholas Hack, Mary Thomas, Charles H. Buck & Wiley S. Wright, R. A. Destrehan, C. E. Anglerodt, Nelson Cole, Samuel McCutchon, Louis Espenschild, Chris. F. Liebke & Charles H. Schrage, Mary V. Scott, Julia Crosby, Sallie B. McPheeters, Liebke & Schrage, miether-; Mary B. Scott, Liebke & Schrage, miether-; L. Especschield, Christian F. Liebke, & Charles H. Schrage, Liebke & Schrage, miether-; Louis Espenchild *et al.*, Benjamin M. Lewis, Mary L. Tyler, Mary L. Tyler, Andrew Kiel, miether; Mary L. Tyler, Frederick Walters, miether; Martha Sweringen, Mary Diggs, miether; Martha Sweringen, Albert Urban, miethers; Anna Austin, Rachel A. Wells, Tawny Manson, Martha J. Sweringen, Eliza A. Dean, Cornelia F. Tilford, Wnf. H. Glasgow, Joseph Gartside, John S. McCune, Napoleon Milliken, Samuel Gathy, Wm. H. Lackland, and Alexander Martin, Wm. C. Taylor, Elias Hasselwander, Edward Heilgeberg, John C. Alford, and Wm. Trigg, Robert Cook, Charles Gage, John

Gage, Martha A. Wills (Henry Overstol, Fred Schulenberg, and Adolphus Boeckler, Luch V. Semple Ames, miether-), Orleana Schaumberg, Lucy V. Semple Ames, miether; Isaac Walker'-besitythum, Benjamin W. Hill, Louisa Arieth, J. Newhouse, tr. Sylvia Newhouse, *tr.*; Mulanphy Emigrant Relief Fund; Stadt St. Louis, Nord Missouri Eisenhahu Co., Christopher Crone, Wm. S. Harvey, H. W. Vaughi's beistythum, Channey Staples, Wm. H. McPherson, M. A. Pendleton, Arthur Barrett, Martha J. Sweringen, and Alexander W. Mitchell's beistthum, Thomas Austin, Verklagte. Vor dem Land-Commissär der Stadt St. Louis. Da C. E. Angelrodt, Chauncey Staples, E. F. Tilford, Wm. H. Glasgow, Lucy V. Semple Ames, George Fisher, Mary B. Scott, Martha A. Willis, M. A. Pendleton, Robert Cook, Thos. Austin, Fannie M. Manson, Christopher Crone, Mary Thomas, Louise Arleth, Anna Austin, Sarah A. Ihling, Julia Crosby, R. A. Destrahan, Sallie B. McPheeters, J. Newhouse, tr.; Orleans Schaumberg, Mary L. Tyler, S. McCutcheon, Benj. W. Hill, Sylvia Newhouse, tr.; H. W. Vaughan's besitthune, Elias Hasselwender, Eliza A. Dean, Rachel A. Wells, Elvise P. Kaiser, John Withers, Margaret Thomas, Catherine Kohler, Solon Humphreys, Issac Walker's besitune, Wm. C. Taylor, Jas. McGuire,

352 von den hier oben mit Namen genannten Beklagten vom Stadtmarschall als unbekannt nicht zu finden oder von der Stadt abwesend berichtet wurden, so wird hiermit laut Gesetz durch Publikation Notiz gegeben an obengenannte Parteien, Beklagten und alle an dem mit Beschlag zu belegenden Eigenthum und vorzunehmenden Verbesserungen Interessierten, daß Schritte gethan werden durch den Landcommissär der Stadt St. Louis, in Uebereinstimmung mit den Verordnungen einer Akte zur Revision des Charters der Stadt St. Louis, bestätigt am 4. März 1870, und der revidirten Stadt-Ordinanz Nummer 5393, bestätigt am 2. August 1864, betitelt: „Eine Ordinanz zur Etablirung des Landcommissär-Amtes und zur Regulirung der Geschäfte desselben" und Stadt-Ordinanz Nr. 5872, in der Office des Landcommissärs in der Stadt St. Louis, am 8ten Tage des September A. D. 1870, beginnend um 10 Uhr Vormittags am genannten Tage und wird am selben Platze und zu solcher Zeit, wie bestimmt werden mag, fortgesetzt zum Zwecke der Beschlagnahme von Privateigenthum für öffentliche Zwecke zur Eröffnung der Kennett Straße, von der North Market Straße bis zur Ferry Straße, wie besagtes Eigenthum in der amtlichen Vermessung und dem Plane zur Eröffnung der besagten Kennett Straße am 1. Juni 1870 vom Stadt-Ingenieur verzeichnet wurde, wo der Werth des zu nehmenden Eigenthums durch Geschworene bestimmt wird und Beeinträchtigungen oder Begünstigungen für und gegen die Stadt eingetragen werden und ebenso gegen und für alle Personen, deren Eigenthum begünstigt oder mit Beschlag belegt wird zur Eröffnung besagter Kennett Straße.

Siegel.

Gegeben unter meiner Hand in der Stadt St. Louis am 9. August 1870.

R. B. Allison,
Landcommissär.

Attest:
Fred. W. Fuchs, Stadtregisstrator.

353 Notice to all persons inter-sted, whether benefitted or damaged by the opening of Kennett street from North Market to Ferry street under city ordinance No. 7110, City of St. Louis, plaintiff, against Laclede Iron Manufacturing Company, Chas. L. and Louis W. Buchanan, James McGuire, Lafayette Parker, Tardy Manning, Sarah A. Ihling, Marshall Brotherton, Marshall Brotherton and John S. Ferguson, Solon Humphreys, Hugo Deibel, George and Henry Brandon, Samuel J. P. Anderson, John Kraft, Fred Kraft, Clemens Maise, Wm. Brass, Geo. Fisher, Phil Kraft *et al.*, Merchants' Bank of St. Louis, David Brancoiner, Erastus Wells, H. S. Parker, Hill, Lemon & Co., Lambert Walther, Catherine Koehler, Catherine Kingsland, Wm. G. & R. B. Clark, and James B. Hill, Phil Kingsland, James B. Hill, Leroy Kingsland, Margareth Thomas, Barton Bates, John Withers, Daniel McAteer, and Michael Cassiday, John Maguire, Eloise P. Kaiser, Parker and Anderson, Charles R. Anderson, E. Mallinckrodt, Gustav, Edward, and Otto Mallinckrodt, Robert Barth, John C. Schreiner, Nicholas Hach, Mary Thomas, Charles H. Buck, & Wiley S. Wright, N. A. Destrehan, E. C. Angelrodt, Nelson Cole, Samuel McCutchon, Louis Espenschild, Christ. F. Liebke, & Charles H. Schrage, Mary B. Scott, Julia Crosby, Sallie B. McPheeters, Liebke & Schrage, lessee-; Mary B. Scott, Liebke & Schrage, lessee-; Liebke & Schrage, lessee-; Louis Espenschild *et al.*, Benjamin M. Louis, Mary L. Tyler, Andrew Kiel, lessee; Mary L. Tyler, Frederick Walters, lessee; Martha Sweringen, Mary Diggs, lessee; Martha Sweringen, Albert Urban, lessee; Anna Austin, Rachel A. Wells, Fannie N. Manson, Martha J. Sweringen, Eliza A. Dean, Co-melia F. Tilford, Wm. H. Glasgow, Joseph Gartside, John S. McCune, Napoleon Milliken, Samuel Gaty, Wm. H. Lackland, and Alexander Martin, Wm. C. Taylor, Elias Hasselwander, Edw. Heilgeberg, John S. Alford, and Wm. Trigg, Robert Cook, Charles Gage, John Gage, Mar-ha A. Wells, (Henry Overstolz, Fred Schulenberg, and Adolphus Boeckler, Lucy V. Semple Ames, lessees), Orleana Schaumburg, Lucy V. Semple Ames, lessee; Isaac Walker's est., Benjamin W.
354 Hill, Louis Orleth, J. Newhouse, tr. Sylvia Newhouse; Mullanphy Emigrant Relief Fund, City of St. Louis, North Missouri Railroad Co., Cristopher Crone, Wm. S. Harvey, H. W. Vaughan's est., Chauncey Staples, Wm. M. McPherson, M. A. Pendelton, Arthur Barrett, Martha J. Sweringen, and Alexander W. Mitchell'- est., Thomas Austin, defendants.

Before the land commissioner of the city of St. Louis.

Whereas E. C. Angelrodt, Chauncey Staples, C. Tilford, Wm. H. Glasgow, Lucy V. Semple Ames, Geo. Fisher, Mary B. Scott, Martha A. Wills, M. A. Pendleton, Robert Cook, Thos. Austin, Fannie M. Manson, Christopher Crone, Mary Thomas, Louise Arleth, Anna Austin, Sarah A. Ihling, Julia Crosby, N. A. Destrahan, Sallie B. McPheeters, J. Newhouse, tr.; Orleana Schaumberg, Mary L. Tyler, S. McCutcheon, Benjamin W. Hill, Sylvia Newhouse, H. W. Vaughan's est., Elias Hasselwander, Eliza A. Dean, Rachel A. Wells, Elvoise

P. Kaiser, John Withers, Margaret Thomas, Catherine Koehler, Solon Humphreys, Isaac Walker's est., Wm. C. Taylor, Jas. McGuire, of the above-named defendants, are returned by the city marshal as unknown, cannot be found, or absent from the city: Now, therefore, notice by publication, according to law, is hereby given to the above-named parties defendants and all others interested in the property proposed to be taken and in the improvements to be made that proceedings will be had by the land commissioner of the city of St. Louis, in accordance to the provisions of an act to revise the charter of the city of St. Louis and extend the limits thereof, approved March 4th, 1870, and revised city ordinance No. 5393, approved August 2nd, 1864, styled "An ordinance establishing the office of land commissioner and regulating the proceedings thereof," and city ordinance No. 5872 and city ordinance No. 6919, at the office of the land commissioner, in the city of St. Louis, on the -gi-th day of September, A. D. 1870, commencing at ten o'clock a. m. of that day and continuing at the same place and at such times as then and
355 thereafter may be appointed, for the purpose of causing private property to be condemned for public use in order to open Kennett street from North Market street to Ferry street, as said property is designated on the official survey and plat of said Kennett street and by the city engineer, dated the 1st day of June, 1870, when a jury will be empanneled and the actual value of the land proposed to be taken will be ascertained and damages and benefits assessed against and for the city and also against and for all persons whose property is benefitted or taken by said Kennett street being opened, as aforesaid.

Given under my hand, at the city of St. Louis, this 9th
[SEAL.] day of August, A. D. 1870.

R. B. ALLISON,
Land Commissioner.

Attest: FRED. W. FUCHS,
City Register.

STATE OF MISSOURI, }
County of St. Louis, } *ss:*

Personally appeared before the undersigned (a notary public within and for the county of St. Louis) Henry G. Paschall, who, being duly sworn, deposeth and saith that the annexed advertisement was published in the "Missouri Republican" (printed within the said county and State, the newspaper of which he is one of the publishers) for thirty times, the first insertion being on the 10th day of August and the last insertion on the 8th day of September, 1870.

1st time, August 10th.
2nd time, " 11th.
3rd time, " 12th.
4th time, " 13.
5th time, " 14.
6th time, " 15.
7th time, " 16.

8th time, August 17.
356 9th time, August 18th.
10th time, " 19.
11th time, August 20.
12th time, " 21.
13th time, " 22.
14th time, " 23.
15th time, " 24.
16th time, " 25.
17th time, " 26.
18th time, " 27.
19th time, " 28.
20th time, " 29.
21st time, " 30.
22nd time, " 31.
23rd time, September 1.
24th time, " 2.
25th time, " 3.
26th time, " 4.
27th time, " 5.
28th time, " 6.
29th time, " 7.
30th time, " 8.

HENRY G. PASCHALL.

Sworn to and subscribed before me this 4th day of November, 1870.

[SEAL.] D. G. JONES,
Notary Public, St. Louis Co.

Printer's fee..... 30.00
Affidavit..... .... .50

30.50

We, the jury, John F. Laumann, G. Couzekmann, Joshua Cheever, Anton Fashinger, Augustus Schulenberg, W. W. Ivory, six disinterested freeholders of the city of Saint Louis and residents
357 therein, being duly empanneled and sworn to faithfully and impartially perform the duties imposed upon us by an act of the General Assembly of the State of Missouri entitled "An act to revise the city charter of the city of Saint Louis," approved March 4th, A. D. 1870, in the case of opening Kennett street from North Market street to Ferry street, according to city ordinance No. 7110, approved January 26th, A. D. 1870—

Wherein The City of St. Louis is plaintiff and Martha S. Sweringen and Alex. W. Mitchell's est., Mary A. Pendleton, Wm. M. McPherson, Mullanphy Emigrant Relief Fund, J. Newhouse, tr.; Berry W. Hill, Isaac Walker est., Orleana Schaumberg, Lucy V. S. Ames, lessee; Henry Overstolz, Fred Schulenberg, Adolphus Boeckler, L. V. S. Ames, lessee; Martha A. Wells, Mary L. Tyler, Wm. C.

Taylor, Wm. H. Lackland, City of Saint Louis, Alex. Martin, Damuel Gaty, John S. McClure, Jos. Gartside, Wm. H. Glasgow, Julia Crosby, Sallie B. McPheeters, Louis Espenschild, Christ. F. Liebke and Chas. Schrage, E. C. Angelrodt, N. A. Destrahan, Emil Mallinckrodt, Henry S. Parker and Chas. R. Anderson, Samuel B. Stannard and Wm. and James Patrick, Marshal Brotherton, John Ferguson, Hill, Lemon & Co., H. S. Parker, Erastus Wells, Laclede Iron Manufacturing Co., Chas. L. and Louis W. Buschman, James McGuire are defendants, having heard the testimony on either side and having examined the ground to be taken for the proposed improvement, do find as follows:

That in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Martha S. Sweringen and Alexander W. Mitchell'- est. and Arthur B. Barrett, bounded and described as follows, viz: Beginning at a point in the north line of Warren street where the same is intersected by the east line of Kennett street as established, as aforesaid,
358 thence running northwardly with the said east line one hundred and twenty feet to the south line of land of M. A. Pendleton; thence running westwardly with the said south line in direct line at continuation one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line one hundred and twenty feet to the north line of Warren street; thence running eastwardly with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Martha S. Sweringen and Arthur B. and Alexander W. Mitchell est. — Barrett, without reference to the proposed improvement, to be the sum of two thousand dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to M. A. Pendleton, bounded and described as follows, viz:

Beginning at a point in the north line of land of Sweringen and Mitchell est. where the same is intersected by the east line of Kennett Str. as established, as aforesaid, thence running northwardly with the said east line forty feet to the south line of land of Wm. M. McPherson; thence running westwardly in direct line at continuation with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line forty feet to the north line of land — Sweringen and Mitchell est.; thence running eastwardly in direct linear continuation with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said M. A. Pendleton, without reference to the proposed improvement, to be the sum if three hundred dollars; also
359 that in order to open Kennett Str. as established, as aforesaid, it will be necessary to take a piece of ground belonging to Wm. M. McPherson, bounded and described as follows, viz:

Beginning at a point in the north line of land of M. A. Pendleton where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty feet to the south line of Montgomery street; thence running westwardly with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line eighty feet to the north line of land — M. A. Pendleton; thence running eastwardly in direct linear continuation with the said north line one hundred feet to the place of beginning.

And we ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said W. M. McPherson, without reference to the proposed improvement, to be the sum of one thousand seven hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Mullanphy Emigrant Relief Fund, bounded and described as follows, viz:

Beginning at a point in the north line of land of city of St. Louis where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty feet to the south line of Spring street; thence running westwardly with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence
360 running southwardly with the said west line eighty feet to the north line of land of city of St. Louis; thence running eastwardly with the said north line (in direct linear continuation) one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Mullanphy Emigrant Relief Fund, without reference to the proposed improvement, to be the sum of one thousand seven hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece — ground belonging to A. B. Barrett, Emma F. Nelson, J. T. Sweringen, tr.; Wm. H. Glasgow, Jr., bounded and described as follows, viz:

Beginning at a point in the north line of Spring street where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty feet to the south line of land of Ben. W. Hill; thence running westwardly in direct linear continuation with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line eighty feet to the north line of Spring street; thence running eastwardly with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said I. Newhouse, trustee, without reference to the pro-

posed improvement, to be the sum of one thousand seven hundred dollars.

Also that in order to open Kennett street, as established as aforesaid, it will be necessary to take a piece of ground belonging
361 to Ben. W. Hill, bounded and described as follows, viz.:

Beginning at a point in the north line of land of J. Newhouse, tr., where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty feet to the south line of land of Isaac Walker est.; thence running westwardly with the said south line in direct linear continuation one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line eighty feet to the north line of land of J. Newhouse, tr.; thence running eastwardly in direct linear continuation with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Ben. W. Hill, without reference to the proposed improvement, to be the sum of six hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Julia E. Walker, Geo. W. Bull, Jr.; Robert W. Bull, minor; Robert Maclay, guard. Julia E. Maclay; Emily D. Stier, Annie E. Gawtry, Mary M. Nevies, Augusta R. Jenkins, Isaac C. Walker, Thomas A. Walker, bounded and described as follows, viz:

Beginning at a point in the north line of land of B. W. Hill where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty feet to the south line of Wright street; thence running westwardly with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line eighty feet to the
362 north line of land of B. W. Hill; thence running eastwardly in direct linear continuation with the said north line one hundred feet to place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Julia E. Walker, G. W. Bull, Jr.; R. W. Bull, min.; Rob't Maclay, guard. Julia E. Maclay; Emily D. Spier, Ann E. Garoty, M. M. Neves, Aug. J. Jenkins, J. C. Walker, Thom. A. Walker, without reference to the proposed improvement, to be the sum of fifteen hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Orleans Schaumberg, Lucy V. Semple Ames, lessee, bounded and described as follows, viz: Beginning at a point in the north line of Wright street where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty feet to the south line of land of H. Overstolz *et al.*; thence running eastwardly in direct linear contin-

uation with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line eighty feet to the north line of Wright street; thence running eastwardly with the said north line one hundred feet to the place of beginning.

And we do ascertain the value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Orleans Schaumberg, Lucy V. Semple Ames, lessee, without reference to the proposed improvement, to be the sum of one thousand five hundred dollars.

Also that in order to open Kennett street as established, as
363 aforesaid, it will be necessary to take a piece of ground belonging to Henry Overstolz, Fred Schulenberg, and Adolphus Boeckeler, Lucy V. Semple Ames est., bounded and described as follows, viz: Beginning at a point in the north line of Schulenberg, Ames, les., where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty feet to the south line of land of M. A. Wills; thence running westwardly in direct linear continuation with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid, thence running southwardly with the said west line eighty feet to the north line of land of Scammberg, Ames, les.; thence running eastwardly in direct linear continuation with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Henry Overstolz, Fred. Schulenberg, Adolphus Boeckler, Lucy V. S. Ames, lessee, without reference to the proposed improvements, to be the sum of six hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Martha A. Wills, bounded and described as follows, viz:

Beginning at a point in the north line of land of H. Overstolz *et al.* where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty feet to the south line of Palm street;
363½ thence running westwardly with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line eighty feet to the north line of H. O. Overstolz *et al.*; thence running eastwardly in direct linear continuation with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Martha A. Wills, without reference to the proposed improvements, to be the sum of one thousand five hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Mary L. Tyler, bounded and described as follows, viz:

Beginning at a point in the north line of Palm street where the same is intersected by the east line of Kennett street as established,

as aforesaid, thence running northwardly with the said east line three hundred and fifteen feet to the south line of Tyler street; thence running westwardly with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line three hundred and fifteen feet to the north line of Palm street; thence running eastwardly with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Mary L. Tyler, without reference to the proposed improvements, to be the sum of five thousand dollars.

364 And that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Wm. C. Taylor, bounded and described as follows, viz:

Beginning at a point in the north line of Tyler street where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line one hundred and thirty-four feet to the south line of land of Lackland & Martin; thence running westwardly with the said south line (in direct linear continuation) one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line one hundred and thirty-four feet to the north line of Tyler street; thence running eastwardly with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Wm. C. Taylor, without reference to the proposed improvements, to be the sum of two thousand dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Wm. H. Lackland and Alex. Martin, bounded and described as follows, viz:

Beginning at a point in the north line of land of Wm. C. Taylor where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line forty-one feet and six inches to the south line of

365 land of Samuel Gaty; thence running westwardly with the said south line (in direct linear continuation) one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line forty-one feet and six inches to the north line of land of Wm. C. Taylor; thence running eastwardly with the said north line (in direct linear continuation) one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Wm. H. Lackland and Alex. Martin, without reference to the proposed improvement, to be the sum of two hundred dollars.

And that in order to open Kennett street as established, as afore-

said, it will be necessary to take a piece of ground belonging to Samuel Gaty, bounded and described as follows, viz:

Beginning at a point in the north line of land of Lackland & Martin where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line forty-one feet and six inches to the south line of land of John S. McCune; thence running westwardly in direct linear continuation with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line forty-one feet and six inches to the north line of land of Lackland and Martin; thence running eastwardly in direct linear continuation with the said north line one hundred feet to the place — beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described,
366 belonging to the said Sam'l Gaty, without reference to the proposed improvements, to be the sum of two hundred dollars.

And that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to John S. McCune, bounded and described as follows, viz:

Beginning at a point in the north line of land of Sam. Gaty where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty-three feet to the south line of land of Jas. Gartside; thence running westwardly in direct linear continuation with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west lines eighty-three feet to the north line of land of Sam. Gaty; thence running eastwardly in direct linear continuation one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said John S. McCune, without reference to the proposed improvement, to be the sum of four hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Joseph Gartside, bounded and described as follows, viz:

Beginning at a point in the north line of land of John S. McCune where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with
367 the said east line eighty feet to the south line of land of Wm. H. Glasgow; thence running westwardly in direct linear continuation with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line eighty feet to the north line of land of John S. McCune; thence running eastwardly in direct linear continuation with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belong-

ing to the said Joseph Gartside, without reference to the proposed improvement, to be the sum of four hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Wm. H. Glasgow, bounded and described as follows, viz:

Beginning at a point in the north line of land of J. Gartside, where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line eighty-two feet to the south line of Dock street; thence running westwardly with the said south line one hundred feet to the west line of Kennett —, as established as aforesaid; thence running southwardly with the said west line eighty-two feet to the north line of land of J. Gartside; thence running eastwardly in direct linear continuation with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described,
368 belonging to the said Wm. H. Glasgow, without reference to the proposed improvement, to be the sum of one thousnad two hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Mary L. Tyler, bounded and described as follows, viz:

Beginning at a point in the north line of Dock street where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line one hundred and eighty-five feet ten and three-fourth inches to the centre line of Rocky branch; thence running westwardly with the said centre line one hundred feet, more or less, to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line one hundred and ninety-eight feet ten and three-fourths inches to the north line of Dock street; thence running eastwardly with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to Mary L. Tyler, without reference to proposed improvement, to be the sum of one thousand five hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Julia Crosby, bounded and described as follows, viz:

Beginning at a point in the north line of land of Mary L. Tyler where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with
369 the said east line one hundred and three feet to the south line of land of Sallie B. McPheeters; thence running westwardly in direct linear continuation with the said south line forty feet to the east line of Kennett street as heretofore established; thence running southwardly with the said east line one hundred and three feet to the centre line of Rocky branch; thence running

eastwardly with the said centre line forty feet, more or less, to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Julia Crosby, without reference to the proposed improvement, to be the sum of four hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Sallie B. McPheeters, bounded and described as follows, viz:

Beginning at a point in the north line of Julia Crosby where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line two hundred feet to the south line of Buchanan street; thence running westwardly with the said south line forty feet to the east line of Kennett street as heretofore established; thence running southwardly with the said east line two hundred feet to the north line of land formerly owned by Julia Crosby; thence running eastwardly with the said north line forty feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid, and as above described,
370 belonging to the said Sallie B. McPheeters, without reference to the proposed improvement, to be the sum of one thousand dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Louis Espenschild, Christ. F. Liebke, and Chas. H. Schrage, bounded and described as follows, viz:

Beginning at a point in the north line of Buchanan street where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line two hundred and ninety feet to the south line of Angelrodt street; thence running westwardly with the said south line forty feet to the east line of Kennett street as established heretofore; thence running southwardly with the said east line two hundred and ninety feet to the north line of Buchanan street; thence running eastwardly with the said north line forty feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Louis Espenschild, Christ. F. Liebke, Chas. H. Schrage, without reference to the proposed improvement, to be the sum of one thousand five hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to E. C. Angelrodt, bounded and described as follows, viz:

Beginning at a point in the north line of Angelrodt street where the same is intersected by the east line of Kennett street
371 as established, as aforesaid, thence running northwardly with the said east line two hundred and twenty-seven feet and four inches to the south line of land of N. A. Destrehan; thence running westwardly with the said south line forty feet to the east line of Kennett street as established, as aforesaid; thence running southwardly with

the said east line two hundred and twenty-seven feet and four inches to the north line of Angelrodt street; thence running eastwardly with the said north line forty feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said E. C. Angelrodt, without reference to the proposed improvement, to be the sum of thirteen hundred and eighty-five dollars.

Also that an order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to N. A. Destrehan, bounded and described as follows, viz:

Beginning at a point in the north line of land of E. C. Angelrodt where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line two hundred and seven feet and two inches to the south line of Destrehan street; thence running eastwardly with the said south line forty feet to the east line of Kennett street as established, as aforesaid; thence running southwardly with the said east line two hundred and seven feet and two inches to the north line of land formerly owned by E. C. Angelrodt; thence running eastwardly with the said north line forty feet to the place of beginning.

And we do ascertain the actual value of the land proposed
372 and necessary to be taken, as aforesaid and as above described, belonging to the said N. A. Destrehan, without reference to the proposed improvement, to be the sum of one thousand and thirty-five dollars.

And that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to —— ——, bounded and described as follows, viz:

Beginning at a point in the north line of Mallinckrodt street where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line one hundred and twenty feet to the centre line of Gingrass creek; thence running westwardly with the said centre line to the east line of Kennett street as established, as aforesaid; thence running southwardly with the said east line one hundred and twenty-five feet to the north line of Mallinckrodt street; thence running eastwardly with the said north line forty feet and one and one-half inches to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said —— ——, without reference to the proposed improvement, to be the sum of seven hundred and sixty dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Marshall Brotherton and John S. Ferguson, bounded and described as follows, viz:

372½ Beginning at a point in the north line of Bremen avenue where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line three hundred and twenty-six feet and one and one-half inches to the south line of land of Hill, Lemon & Co.;

thence running westwardly with the said south line (in direct linear continuation) one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the west line three hundred and twenty-six feet and one and one-half inches to the north line of Bremen avenue; thence running eastwardly with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Marshall Brotherton and John S. Ferguson, without reference to the proposed improvement, to be the sum of two thousand dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Hill, Lemon & Co., bounded and described as follows, viz:

Beginning at a point in the north line of land of Marshall & Ferguson where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line four hundred and eighty-eight feet and nine and one-half inches to the south line of land of H. S. Parker *et al.*; thence running westwardly in direct linear continuation with the said south line one hundred feet to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line four hundred and eighty-eight feet and nine and one-half inches to the north line of land formerly owned by
373 Marshall and Ferguson; thence running eastwardly with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Hill, Lemon & Co., without reference to the proposed improvement, to be the sum of two thousand five hundred dollars.

Also that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Erastus Wells, bounded and described as follows, viz:

Beginning at a point in the north line of land — H. S. Parker *et al.* where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line one hundred and fifty — to the south line of Angelrodt street; thence running westwardly with the said south line one hundred feet and three-fourths inches to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line one hundred and fifty feet to the north line of land formerly owned by H. S. Parker *et al.*; thence running eastwardly with the said north line one hundred feet to the place of beginning.

And we do ascertain the actual value of the land proposed and neces-ary to be taken, as aforesaid and as above described, belonging to the said Erastus Wells, without reference to the proposed improvement, to be the sum of two thousand dollars.

Also that in order to open Kennett street as established, as aforesaid, — be necessary to take a piece of ground belonging to
374 Marshall Brotherton and John S. Ferguson, bounded and described as follows, viz:

Beginning at a point in the north line of Angelica street where the same is intersected by the *the* east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line two hundred and thirty feet, more or less, to the south line of land of Chouteau, Harrison & Valle; thence running westwardly in direct linear continuation with the said south line one hundred feet and three-fourths inches to the west line of Kennett street as established, as aforesaid; thence running southwardly with the said west line two hundred and thirty feet, more or less, to the present line of Angelrodt street; thence running eastwardly with the said north line one hundred feet and three-fourths inches to place of beginning.

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Marshall Brotherton and John S. Ferguson, without reference to the proposed improvement, to be the sum of twenty-five hundred dollars.

And that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to Chas. L. Louis, W. Buschmann, bounded and described as follows, viz:

Beginning at a point in the north line of *of* Augusta street where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line one hundred and thirty-seven feet and seven and one-half inches to the south line of an alley; thence running westwardly with the said south line forty feet and one-fourth inches to the east line of Kennett street as heretofore established; thence running southwardly with the said east line one hundred and thirty-seven — and seven and one-half inches to the north line of Augusta street; thence running eastwardly with the said north line forty feet and one-fourth inch to the place of beginning.

375

And we do ascertain the actual value of the land proposed and necessary to be taken, as aforesaid and as above described, belonging to the said Chas. L. and Louis W. Buschmann, without reference to the proposed improvement, to be the sum of four hundred dollars.

And that in order to open Kennett street as established, as aforesaid, it will be necessary to take a piece of ground belonging to James McGuire, bounded and described as follows, viz:

Beginning at a point in the north line of an alley where the same is intersected by the east line of Kennett street as established, as aforesaid, thence running northwardly with the said east line one hundred and thirty-seven feet and seven and one-half inches to the south line of Ferry street; thence running westwardly with the said south line forty feet and one-fourth inch to the east line of Kennett street as heretofore established; thence running southwardly with the said east line one hundred and thirty-seven feet and seven and one-half inches to the north line of an alley; thence running eastwardly with the said north line forty feet and one-fourth inches to the place of beginning.

And we do ascertain the actual value of the land proposed and

necessary to be taken, as aforesaid and as above described, belonging to the said James McGuire, without reference to the proposed improvement, to be the sum of one thousand dollars.

376 And we do further say the aggregate value of the land proposed and necessary to be taken, as aforesaid, for the purpose of opening Kennett street as established, as aforesaid, to be the sum of forty thousand four hundred and eighty dollars, of which sum we assess against the city of Saint Louis the sum of three thousand eight hundred and thirty-seven dollars, being the value of the property to the public generally, and the balance, being the sum of thirty-six thousand six hundred and forty-three dollars, we assess against the owners of property and the property benefitted by the proposed opening, according to the value of the property so assessed and in the proportion that said property is benefitted by said opening, as follows, viz:

(Here follow statements marked pp. 377, 378, and 379 and diagram marked p. 380.)

381 Mr. ALLEN: I offer now in evidence a deed entitled on the back Martha J. Sweringen, by the city marshal, to the city of St. Louis, page # 278, filed November 22nd, 1871.

Mr. BELL: We object to that deed.

COURT: What is the date?

A. It is October 16th, 1871, and recorded November 22nd, 1871, in the recorder of deed's office, Book 443, page 42.

Objection overruled.

Said deed was then read and is as follows:

To all to whom these presents shall come, I, John R. Slevin, marshall of the city of St. Louis, State of Missouri, send greeting:

Whereas, the City of St. Louis, on the ninth day of January in the year of our Lord, one thousand eight hundred and seventy-one before the land commissioner of said city, recovered judgment against Martha J. Sweringen and against the following-described real estate the sum of twenty-seven dollars and — cents for amount assessed by way of benefits against the property hereinafter described, in the matter of opening Kennett street together with one dollar and twenty-seven cents for costs and charges in the suit expended in the matter of said opening, upon which judgment a special execution was issued by said land commissioner, in favor of the said City of St. Louis, against the said Martha J. Sweringen and said premises as hereinafter described, dated the first day of September A. D. 1871, directed to the marshal of the city of St. Louis, and was to me the said marshal, delivered, a copy whereof is hereunto annexed and makes part of this deed; by virtue of which said execution I, the said marshal did levy upon and seize the real estate in said execution mentioned, and which is described as follows, to wit:

382 A lot of ground in block number three hundred and eight east (308 E.) in said city ninety feet in front on — street, by two hundred and twenty-four feet and eleven inches in depth,

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

bounded north by Tyler street, east by — south by Dean, west by Sweringen *et al.*, in the city and county of St. Louis, State of Missouri.

And having previously to the day of sale hereinafter mentioned, given at least twenty days' notice of the time and place of sale and of the real estate to be sold, and where situated, as the law directs, by advertisement in the "St. Louis Times" and "Taylicher Nemer Anzeiger des Westens" newspapers printed in said county of St. Louis; copies of which said advertisements are hereto annexed and make part of this deed; by virtue of which said execution and advertisements, I did, on the sixteenth day of October in the year of our Lord eighteen hundred and seventy-one between the hours of nine o'clock in the forenoon, and five o'clock in the afternoon of that day agreeable to said advertisements, at the northern door of the court-house in the city of St. Louis, during the October term of the circuit court of St. Louis county, for the year eighteen hundred and seventy-one expose to sale at public auction for ready money, the above-described real estate together with all rights, privileges and appurtenances thereto belonging, and the city of St. Louis being the highest and last bidder for said real estate, at the given price and sum of forty-six dollars and twenty-four cents the same was struck off and sold to the said city of St. Louis for that sum.

Now therefore, know ye, that in consideration of the premises, and of the said sum of forty-six dollars and twenty-four cents to me in hand paid by the said city of St. Louis, the receipt whereof I do hereby acknowledge, and by virtue of the authority in me vested by law, I, John R. Slevin, marshal as aforesaid, do hereby
383 sell, transfer and convey to her the said City of St. Louis, the said above mentioned and described property, by virtue of the aforesaid execution and advertisements; to have and to hold the same to her the said City of St. Louis and her heirs and assigns forever.

In witness whereof, I, John R. Slevin, marshal of the said city of St. Louis, have hereunto set my hand and seal this sixteenth day of October, in the year of our Lord one thousand eight hundred and seventy-one. JOHN R. SLEVIN, *Marshal.* [SEAL.]

STATE OF MISSOURI, } *ss:*
City and County of St. Louis, }

Be it remembered that on this twentieth day of November, eighteen hundred and seventy-one, before me, Joseph Brown, mayor of the city of St. Louis, came John R. Slevin, marshal of the city of St. Louis, and acknowledged the execution of the foregoing deed by him as said marshal.

In testimony whereof I have hereto set my hand and caused the seal of said city to be hereto affixed the day and year in this behalf above written.

[SEAL.] JOSEPH BROWN, *Mayor.*

By the mayor:
JNO. J. FITZWILLIAM,
City Register.

City Marshal's Sale.

By authority of an execution issued by the land commissioner of the city of St. Louis in the matter of the opening of Kennett street, to me directed and returnable on the sixteenth day of October, one thousand eight hundred and seventy-one, in favor of the city of St. Louis and against Martha J. Sweringen and the following-
384 described real estate, to wit, a lot of ground ninety feet on — by two hundred and twenty-four feet and eleven inches in depth, bounded north by Tyler, east by —, south by Dean, and west by Sweringen *et al.*, in the city and county of St. Louis, State of Missouri, in block No. 308 E., I have levied upon and taken the lot of ground above described, and will, on the sixteenth day of October, one thousand eight hundred and seventy-one, next, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day, at the northern front door of the court-house, in the city and county of St. Louis, State of Missouri, sell at public vendue, to the highest bidder, for cash, the lot of ground above described, to satisfy said execution and costs.

JOHN R. SLEVIN,
City Marshal.

STATE OF MISSOURI, } ss:
County of St. Louis, }

Personally appeared before the undersigned (a notary public within and for the county of St. Louis) Henry Ewing, who, being duly sworn, deposeth and saith that the annexed advertisement was published in the "St. Louis Times," printed within the said county and State, the newspaper of which he is one of the publishers, for twenty-one times, the first insertion being on the twenty-second day of September and the last insertion on the fifteenth day of October, 1871, as follows:

September 22, 1st time.
" 23, 2nd time.
" 24, 3rd time.
" 26, 4th time.
" 27, 5th time.
" 28, 6th time.
" 29, 7th time.
" 30, 8th time.
385 October 1, 9th time.
" 3, 10th time.
October 4, 11th time.
" 5, 12th time.
" 6, 13th time.
" 7, 14th time.
" 8, 15th time.
" 10, 16th time.
October 11, 17th time.
" 12, 18th time.

October 13, 19th time.
" 14, 20th time.
" 15, 21st time.

HENRY EWING.

Sworn to and subscribed before me this twenty-first day of November, 1871.

[SEAL.] D. A. SUTTON,
N. P., St. L. Co.

(409.)

386 Stadtmarſchalls-Verkauf

Kraft eines Exekutionsbefehls, erlaſſen durch den Land-Commiſſär der Stadt St. Louis, in Sachen der Eröffnung der Kennett Straße an mich gerichtet und zurückzugeben am ſechszehnten Tage des Octobers ein tauſend acht hundert ein und ſiebenzig, zu Gunſten der Stadt St. Louis und gegen Martha G. Sweringen das folgendbeſchriebende Grundeigenthum, nämlich: Ein Stück Grund, neunzig Fuß bei zweihundert und vierundzwanzig Fuß elf Zoll Tiefe begrenzt nördlich durch Tyler, öſtlich durch —— —— ſüdlich durch Dean Straße und weſtlich durch Swering u. A. in der Stadt und den Caunty St. Louis, Staad Miſſouri, in Block No. 308 E. habe ich das oben beſchriebene Grundſtück mit Beſchlag belegt und werde daßelbe am ſechzehnten Tage des Oktober ein thauſend acht hundert und ein und ſiebenzig in den Stunden von neun Uhr Vormittags bis fünf Uhr Nachmittags des genannten Tages, an der nördlichen Frontthüre des Courthauſes in der Stadt St. Louis Staat Miſſouri, auf öffentlicher Auktion an den Meiſtbietenden gegen Baar verkaufen, um genannte Exekution und Koſten zu decken.

John R. Slevin,
Stadtmarſchall.

23 Sept. 21 m.

387 STATE OF MISSOURI, } ss:
County of St. Louis, }

Personally appeared before me, the undersigned (a notary public within and for the county of St. Louis), Carl Daenzer, who, being duly sworn, deposeth and saith that the annexed advertisement was published in the St. Louis "Neuer Anzeiger des Westens," printed and published within the said county and State, the newspaper of which he is printer, for twenty-one consecutive days, the first insertion being on the twenty-third day of September, 1871, and the last insertion on the sixteenth day of October, 1871, as follows:

1st	insertion,	in vol. 9, No. 224,	dated	September	23, 1871.
2nd	do.	vol. 9, No. 39,	dated	September	24, 1871.
3rd	do.	vol. 9, No. 225,	dated	"	25, 1871.
4th	do.	vol. 9, No. 226,	dated	"	26, 1871.
5th	do.	vol. 9, No. 227,	dated	"	27, 1871.
6th	do.	vol. 9, No. 228,	dated	"	28, 1871.
7th	do.	vol. 9, No. 229,	dated	"	29, 1871.
8th	do.	vol. 9, No. 230,	dated	"	30, 1871.

9th	do.	vol. 9, No. 231, dated	October	2, 1871.
10th	do.	vol. 9, No. 232, dated	"	3, 1871.
11th	do.	vol. 9, No. 233, dated	"	4, 1871.
12th	do.	vol. 9, No. 234, dated	"	5, 1871.
13th	do.	vol. 9, No. 235, dated	"	6, 1871.
14th	do.	vol. 9, No. 236, dated	"	7, 1871.
15th	do.	vol. 9, No. 237, dated	"	9, 1871.
16th	do.	vol. 9, No. 238, dated	"	10, 1871.
17th	do.	vol. 9, No. 239, dated	"	11, 1871.
18th	do.	vol. 9, No. 240, dated	"	12, 1871.
19th	do.	vol. 9, No. 241, dated	"	13, 1871.
20th	do.	vol. 9, No. 242, dated	"	14, 1871.
21st	do.	vol. 9, No. 243, dated	"	16, 1871.

C. DAENZER.

388 Sworn to and subscribed before me this eighteenth day of October, 1871.

[SEAL.] AUGUST AHRENS,
Notary Public.

Printer's fee	15.59
Affidavit	.50
	16.09

No. ninety.

The City of St. Louis to the marshal of the city of St. Louis, Greeting:

Whereas the City of St. Louis, on the ninth day of January, in the year of our Lord one thousand eight hundred and seventy-one, before the land commissioner of said city, recovered judgment against Martha J. Sweringen and the property hereinafter described for the sum of twenty-seven dollars and — cents for amount assessed by way of benefits against said property in the matter of opening Kennett street, together with one dollar and twenty-seven cents for costs and charges in the suit expended in the matter of said opening: These are therefore to command you that of said real estate, to wit, a lot in block number 3086, in said city, ninety feet in front on — street by two hundred and twenty-four $1\frac{1}{2}$ feet in depth, bounded north by Tyler, east by —, south by Dean, west by Sweringen *et al.*, you cause to be made the debt and costs, and that you have the same before the land commissioner on the sixteenth day of October next, to satisfy the debt and costs aforesaid, and that you certify how you execute this writ.

Witness John H. Terry, land commissioner of the city of St. Louis, with the common seal of the city hereto affixed, this first day of September, in the year of our Lord eighteen hundred and seventy-one.

JOHN H. FERRY,
Land Commissioner.

Attest: JNO. J. FITZWILLIAM,
City Register.

389 STATE OF MISSOURI, } ss:
County of St. Louis, }

I, the undersigned, recorder for said county, certify that the foregoing instrument of writing was filed for record in my office November 22nd, 1871, and is truly recorded in Book 448, page 42.

Witness my hand and official seal the date last aforesaid.

[SEAL.] W. C. KENNETT, *Recorder.*

I offer in evidence certified copy of quitclaim deed from the city of St. Louis to Martha J. Sweringen, recorded in Book 603, page 478, dated March 29th, 1879, signed by Henry Overstolz, mayor, and E. L. Adreon, comptroller, and filed for record on March 29th, 1879.

COURT: Who is it from?

A. From the City of St. Louis to Martha J. Sweringen.

Mr. JOHNSON: Conveying back the property; in other words, redeeming under the law.

Mr. ROBERT: Nine years later?

A. Yes, sir.

Said deed was then read and is as follows:

No. —. Quitclaim Deed on Redemption Certificate.

Know all men by these presents, that whereas the city marshal of the city of St. Louis did on the sixteenth day of October 1871, at the court-house in said city of St. Louis sell the real estate described as follows, to wit: "A lot of ground in block number three hundred eight east (308 E.) in said city ninety feet in front on — street by two hundred and twenty-four feet eleven inches in depth, bounded north by Tyler, east by —, south by Dean, west by Sweringen *et al.*, in the city and county of St. Louis, State of Missouri" which said real estate was sold by said city marshal to satisfy the city's claim thereon for benefits assessed against Martha J. Sweringen, in opening Kennette street, and at which sale the said city of
390 St. Louis became the purchaser of said property. And whereas Martha J. Sweringen has this day paid to the treasurer of said city the sum of seventy $\frac{55}{100}$ dollars being the amount of said claim and costs for which said property was sold together with interest thereon accrued since the day of sale aforesaid. Now therefore in consideration of the premises the said city does hereby remise, release and forever quitclaim unto the said Martha J. Sweringen the real estate above described. To have and to hold the same unto the said Martha J. Sweringen and to her heirs and assigns forever this deed is intended to convey only such title as the city acquired by marshal'- deed above cited.

In testimony whereof we the undersigned mayor and comptroller of the city of St. Louis in compliance with the charter have hereunto set our hands and caused the common seal of the city of St.

Louis to be affixed this twenty-seventh day of March eighteen hundred and seventy-nine.

[SEAL.] HENRY OVERSTOLZ, *Mayor.*
E. L. ADREON, *Comptroller.*

Attest: RICH'D WALSH, *Register.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

Be it remembered that on this twenty-seventh day of March, A. D. eighteen hundred and seventy-nine, before me, the undersigned, a notary public within and for the county and State aforesaid, duly commissioned and qualified, personally came Henry Overstolz, mayor of the city of St. Louis, and E. L. Andreon, comptroller of the city of St. Louis, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and they acknowledged the same to be their act and deed for the purposes therein named.

Witness my hand and official seal the date above written.

[SEAL.] GEO. A. SCHULTE,
Notary Public, City of St. Louis, Mo.

Qualified Nov. 19, 1878.
391 Commission expires Nov. 11, 1882.

Filed and recorded March 29, 1879, @ 9.04 a. m.
C. W. IRWIN, *Recorder.*

NOTE.—The word "city." on line 27, page 478, of this record, is interlined in the original deed.

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, the undersigned, recorder of deeds for said city and State, do hereby certify the foregoing to be a true copy of an instrument of writing executed by the City of St. Louis to Martha J. Sweringen, together with the acknowledgement and date of filing and recording thereof, as the same remains of record in my office, in Book 603, page 478.

[SEAL.] In witness whereof I have hereunto set my hand and official seal this 14th day of March, A. D. 1896.
M. D. LEWIS, *Recorder.*

Mr. ALLEN: I offer to prove by a representation of the comptroller's office that damages, less benefits, were paid to Mary L. Tyler for the property just east and just west of Kennett street from Dock street to the center of Rocky branch, as shown on the plat in the condemnation proceedings—damages were paid to Mary L. Tyler.

Mr. BELL: We object to that as absolutely irrelevant.

Objection overruled.

Mr. ALLEN: I offer to show benefits were paid for property in city

block 660 E. and east of property shown on plat in condemnation proceedings.

Mr. BELL: To that we object. We are objecting to that as evidence.

392 Objection overruled.

Mr. ALLEN: Are you willing to admit that if an officer of the comptroller'- office was here he would testify to that?

Mr. BELL: Do you say he would? Have you examined him?

Mr. ALLEN: I have examined the record with Mr. Gabel, assistant comptroller.

Mr. BELL: Then we admit that the assistant comptroller would so testify, but we object to the testimony as utterly incompetent.

Mr. ALLEN: Mary L. Tyler paid damages, less benefits?

Mr. BELL: Yes.

——: Sallie B. McPheeters, who paid damages, less benefits, represented by voucher # 6?

Mr. BELL: Yes.

——: Ben. W. Lewis, who paid for property in block 660 E., according to the plat that is attached to condemnation proceedings and verdict, and it is assessed against him.

Mr. BELL: We will consider them proved, subject to our objections.

Objection overruled.

Mr. ROBERT: We will offer the leases to Joy, conforming to Mr. Moulton's testimony. They are correct, I know; they are all approved by Leverett Bell, city counselor, April 21st, 1891.

Said lease was then read and is as follows:

This agreement, made this twentieth day of April 1891, by and between the City of St. Louis, through Dan. Able, harbor and wharf commissioner, and John D. Stevenson, comptroller, party of the first part, and Justin E. Joy party of the second part, under authority of ordinance No. 16161 approved April 9th 1891, witnesseth:

That the said party of the first part does by these presents, in consideration of the covenants hereinafter mentioned rent to the said Justin E. Joy party of the second part for a period of fifteen years, ending on the ninth day of April 1906, the following-

393 described portion of the unimproved wharf as follows: Beginning at the intersection of the south line of Dock street and the western wharf line, thence south on said western wharf line one hundred and sixty-one feet and four inches; thence east on a line parallel to the south line of Dock street produced eastwardly to the west line of the St. Louis, Keokuk and North Western railroad rights of way one hundred and fifty-one feet eleven and three-eighths inches; thence northwardly with the west line of said right of way one hundred and sixty-two feet seven and one-quarter inches to the south line of Dock street produced eastwardly; thence west with the south line of Dock street produced one hundred and sixty feet one and seven-eight inches to the place of beginning. Also beginning at a point in the line of the said St. Louis, Keokuk and North Western Railroad Company's right of way one hundred and

sixty-two feet seven and one-quarter inches south of the south line of Dock street produced, and in a line parallel with the south line of Dock street produced two hundred and two feet nine and one-quarter inches east of the west line of the wharf; thence east and parallel with the south line of Dock street produced two hundred and eighty-eight feet two and three-eighth inches to the east line of the wharf; thence with *with* said east line of the wharf four hundred and fifty-one feet four inches; thence west on a line parallel with the south line of Dock street produced two hundred and eighty-five feet three-eighths inches to the east line of said St. Louis, Keokuk and — Western Railroad Company's right of way; thence southwardly with the east line of said right of way four hundred and fifty-one feet ten and three-quarter inches to the place of beginning.

Said portion of the wharf shall be used by the said Justin E. Joy for the purpose of the landing and storing thereon of lumber.

394 Before availing himself of the privileges herein granted, the said Justin E. Joy shall file with the city register his written acceptance of the conditions of the privileges herein granted, and his bond in the sum of two thousand dollars, with two or more good and sufficient securities, conditioned that at the expiration of the term of this lease he, the said Justin E. Joy, shall at his own cost and expense, remove from said portion of wharf all erections and appurtenances that he may place thereon, so as to leave said portion of wharf — from obstructions to public traffic, to the satisfaction of the harbor and wharf commissioner.

In consideration of the privileges herein granted the said Justin E. Joy shall pay to the City of St. Louis an annual rental of six hundred dollars for the 1st 5 years, $1,200 for the 2nd 5 years, and $1,800 for the last 5 years, payable semi-annually in advance.

Nothing in this lease, or in the ordinance authorizing the same, shall be so construed as to exempt steamboats, barges or other water craft, landing at the portion of wharf herein described from the payment to the city of St. Louis of the lawfully established wharfage rates, nor shall said lessee or assigns ever make any charge for landing, at the said portion of wharf, by steamboats, barges or other water craft having business there.

The City of St. Louis reserves the right to alter, amend or repeal the ordinance authorizing this lease at any time.

In testimony whereof, the parties above named have hereto set their hands and seals, this twentieth day of April, 1891.

THE CITY OF ST. LOUIS,
By DAN. ABLE,
Harbor and Wharf Commissioner.
JOHN D. STEVENSON,
Comptroller.
[SEAL.] JUSTIN E. JOY.

CITY COUNSELLOR'S OFFICE, *April 20th*, 1891.

The foregoing agreement is in due form according to law.

LEVERETT BELL,
City Counsellor.

395 Filed April 29th, 1891.

JOS. A. WHERRY, *Register.*

Mr. ROBERT: Also ordinance 16161.
Said ordinance was then read and is as follows:

(16161.)

An ordinance to lease to Justin E. Joy a portion — the unimproved wharf at and north of the foot of Dock street.

Be it ordained by the municipal assembly of the city of St. Louis as follows:

SECTION 1. The harbor and wharf commissioner and comptroller are hereby authorized and directed to lease a portion of the unimproved wharf at the foot of Dock street, and north thereof, to Justin E. Joy for a term of fifteen years from the date of the approval of this ordinance. Said portion of wharf is described as follows: Beginning at the intersection of the south line of Dock street and the western wharf line; thence south on said western wharf line one hundred and sixty-one feet and four inches; thence east of a line parallel to the south line of Dock street produced eastwardly to the west line of the St. Louis, Keokuk and Northwestern Railroad right of way, one hundred and fifty-one feet eleven and three-eighths inches; thence northwardly with the west line of said right of way one hundred and sixty-two feet seven and one-quarter inches to the south line of Dock street produced eastwardly; thence west with the south line of Dock street produced, one hundred and sixty feet one and seven-eighths inches to the place of beginning. Also beginning at a point in the east line of the said St. Louis, Keokuk and Northwestern Railroad Company's right of way one hundred and sixty-two feet, seven and one-quarter inches, south of the south line of Dock street produced and on a line parallel with the south line of Dock street produced two hundred and two feet, nine and one-quarter inches east of the west line of the wharf; thence
396 east and parallel with the south line of Dock street produced two hundred and eighty-eight feet two and three-eighths inches to the east line of the wharf; thence north with said east line of wharf four hundred and fifty-one feet four inches; then west on a line parallel with the south line of Dock street produced, two hundred and eighty-five feet three-eighths inches to the east line of said St. Louis, Keokuk and Northwestern Railroad Company's right of way; thence southwardly with the east line of said right of way four hundred and fifty-one feet ten and three-quarters inches to the place of beginning. Said portion of the wharf shall be used by the said Justin E. Joy for the purpose of landing, hauling, and storing thereon lumber.

SEC. 2. For the privilege herein granted the said Justin E. Joy shall pay to the city of St. Louis for the first five years the sum of six hundred dollars per annum; for the second five years the sum of twelve hundred dollars per annum, and for the last five years the

sum of eighteen hundred dollars per annum, payable semi-annually in advance.

SEC. 3. Nothing in this ordinance, or in the lease hereby authorized to be made, shall be so construed as to exempt steamboats, barges or other water craft landing at the portion of wharf above described, from the payment to the city of St. Louis of the legality established wharfage rates, nor shall said Justin E. Joy ever charge, directly or indirectly, any steamboat, barge or other water craft for the privilege of landing at said portion of wharf.

SEC. 4. Nothing in this ordinance, or in the lease authorized shall be so construed as to interfere with the privileges heretofore granted to the St. Louis, Keokuk and Northwestern Railroad Company under authority of ordinance number fifteen thousand three hundred and seventy-seven, approved December the twenty-fourth, eighteen hundred and eighty-nine.

397 SEC. 5. Before availing himself of the privileges herein granted, the said Justin E. Joy shall file with the city register his written acceptance of the conditions of the privileges herein granted, and his bond in the sum of two thousand dollars, with two or more good and sufficient securities, conditioned that at the expiration of the term of the lease hereby granted, he, the said Justin E. Joy, shall at his own cost and expense, remove from said portion of wharf all erections and appurtenances that he may place thereon, so as to leave said portion of wharf free from obstruction to public traffic to the satisfaction of the harbor and wharf commissioner.

SEC. 6. The privileges herein are not transferable without the written consent of the harbor and wharf commissioner.

SEC. 7. The city of St. Louis reserves the right to alter, amend or repeal this ordinance at any time.

Approved April 9, 1891.

Mr. BELL: These are all subject to our objections.

Objection overruled.

COURT: These benefits refer to the establishment of Kennett street?

Mr. DRABELLE: Yes; both east and west of Kennett Str.

EARNEST BOEDICKER, being duly sworn on behalf of defendants, testified as follows:

Direct examination by JOHN H. DRABELLE, Esq.:

Q. Please state your name.
A. Earnest Boedicker.
Q. What is your occupation?
A. Draughtsman in the assessor's office.
Q. Deputy in the assessor's office?
A. Yes, sir.
Q. What are your duties?
A. I am a draughtsman. I draw plats.
Q. For what purpose?
A. For the running of the office and assessment of property.

398 Q. What kind of books have you in the office for the purpose of making assessments of property?

A. A set of plat books and a set of record books.

Q. Have you those plat books from 1874 down to the present time?

A. Record books; yes.

Q. You have them?

A. Yes, sir.

Q. I will ask if you know whether block 2544 first appears on the record book of your office.

A. In 1875, I believe.

Q. Have you got the record book of 1874 and 1877, containing that block and property adjoining it?

A. Yes, sir.

Q. Will you produce it at once?

—. ——.

Mr. BELL: When were you first employed in the assessor's office?

A. In 1884.

Q. In 1884, and when was this book made?

A. 1874.

Q. Did you make this book?

A. No.

Q. Do you know the gentlemen who made this book?

A. No.

Q. Do you know anything about the correctness of his work?

A. No.

Mr. BELL: I object to the book and object to the witness testifying from the book. Here is a gentleman, a draught-man in the assessor's department. He commenced work there in 1884, and he produces a record made in 1874. Personally he did not make it; has no knowledge whether it is correct or otherwise.

COURT: Objection overruled.

Mr. DRABELLE: We offer in evidence this record book of 1874 to 1876 of block # 2544. We offer all the plat book from 1874.

COURT: This, I understand, shows block 2544.

Mr. DRABELLE: Yes.

Mr. ALLEN: Who makes out the tax bills from these plats?

A. The clerks in the office.

Q. What year is that book?

A. That is 1884 to 1886.

We offer that in evidence.

399 Q. That book commenced in 1884?

A. Yes, sir.

Q. You are a draughtsman?

A. Yes, sir.

Q. What do these boundary lines mean? What are they boundaries of?

A. The boundaries of property the way it is assessed.

Q. This city block 2544 is assessed from 1884 to 1886?

A. Yes, sir.
Q. What is that bounded south by?

Mr. BELL: We object to that.

Ans. Dock street.
Q. What is it bounded east by?
A. The wharf.

Mr. JOHNSON: We object to this. It does not show any wharf.
COURT: Objection overruled.

Q. What is east of city block 2544?
A. The wharf.

Mr. BELL: We object to the answer.

Q. Can you state and will you state whether there is anything east of the line—the east line of city block 2544—assessed which has been assessed since 1884?

Mr. BELL: We object to that. He does not know anything about it except what he gathers from looking at the plats and records. He says that this block is bounded east by a wharf. I venture to say he never saw a wharf.
COURT: Objection overruled.

Q. Is anything assessed east of the wharf line—east of the west line of the wharf?

Mr. BELL: How does he know?

Q. Has any property between the north line of Dock street and the north line of the property marked Mary L. Tyler and east of the line marked west line of the wharf which is the east line of city block 2544 been assessed since 1874?

Mr. BELL: We object to that question.
COURT: Objection overruled.

A. Not according to the books.

400 Mr. JOHNSON: We object to the answer.

Q. These are official books?
A. Yes, sir.
Q. These books show what property has been assessed and what has not been assessed?
A. Yes, sir.

Mr. ALLEN: We make the offer of the books.
Which are as follows:

(Here follow maps marked pp. 400 to 406, incl.)

Dock Street

No. 4790
Swearingen
St. Louis
p. 400

Tigard Jos. G. 75 Jr.

Dean Elija A. 80 Jr.

Swearingen Martha E. 40.

96

Tyler Mary L. 120.

120
92

Crosby Julia 42.

Espenschied Louis
Liebke & Schrage
Lessees 42.

Scott Mary B. 42.

Espenschied Louis
Liebke & Schrage
Lessees 42.

McPheeters Sallie B 20.
1882

Buchanan Street.

Street

Block 3544

A true copy of Plat on file in the Office
of the Assessment of the Revenue for
the years 1874 - 1875 - 1876.

C. H. Pfeiffer
Pres. Board of Assessors.

A. Yes, sir.
Q. What is that bounded south by?

Mr. Bell: We object to that.

Ans. Dock street.
Q. What is it bounded east by?
A. The wharf.

Mr. Johnson: We object to this. It does not show any title.
Court: Objection overruled.

Q. What is east of city block 2544?
A. The wharf.

Mr. Bell: We object to the answer.

Q. Can you state and will you state whether there is anything east of the line—the east line of city block 2544—exposed which has been exposed since 1847?

Mr. Bell: We object to that. He does not know anything about it except what he gathers from looking at the plats and records. He says that this block is bounded east by a wharf. I venture to say he never saw a wharf.
Court: Objection overruled.

Q. Is anything exposed east of the wharf line—east of the wharf line of the wharf?

Mr. Bell: How does he know?

Q. Has any property between the north line of [illegible] street and the north line of the property marked Mary J. Sweeny and the line marked west line of the wharf which is the east line of block 2544 been exposed since 1847?

Mr. Bell: We object to that question.
Court: Objection overruled.

A. Not according to the levee.

Mr. Johnson: We object to the answer.

Q. These are official books?
A. Yes, sir.
Q. These "levee sheets" and property has been exposed [illegible] has not been exposed?
A. Yes, sir.

Mr. Allen: We [illegible]
Which are as follows: [illegible] to 400, incl.)

No. 470.
Lovejoy
to
St. Louis

p. 401

Dock Street

Tilford Jos. G.
10-25-73

Dean Eliza N.

Swearingen Martha J. Mrs

Tyler McK. L.

Crosby Julia

Espenschied Louis
Lietke w Schrage

Scott Mary B.

Espenschied Louis
Lietke w Schrage
Lessee

Mc Phetters Sallie B.

Buchannan Street

Street Co's

Block 2544

A true copy of Plat on file in the Office
of the Assessment of the Revenue for
the years 1877-1878-1879

A. M. Thurlemire
Pres. Board of Assessors

No. 470
Surveyor's Book p. 1402
H. Logue

Dock Street

Tilford Joseph C.
Dean Elisa A.
Swearingen Martha J. Mrs.
Tyler Mary V.
Crosby Julia B.
Espenschied Louis & Liebke & Schrage
Scott Mary B.
Espenschied Louis & Liebke & Schrage
McPheeters Sallie B.

Street 60'x

Block 1544

Buchanan Street

A true copy of Plat on file in the Office of the Assessment of the Revenue for the years 1880. 1881- 1882- 1883

C. H. Schlueter
Pres. Board of Assessors.

No 470 Surveyor's Book St Louis p 403

A true copy of Plat on file in the Office of the Assessment of the Revenue for the years 1884-1885-1886

G. H. Kuchenbecker
Pres. Board of Assessors.

Dock Street

Tilford Jos. G.

Dean Elisha A.

Springer Martha J. Mrs.

Tyler Mary

Mississippi River

Olcott Chas H. & Dorris J.S.

Eppenschied Louis & Liebke & Schrage

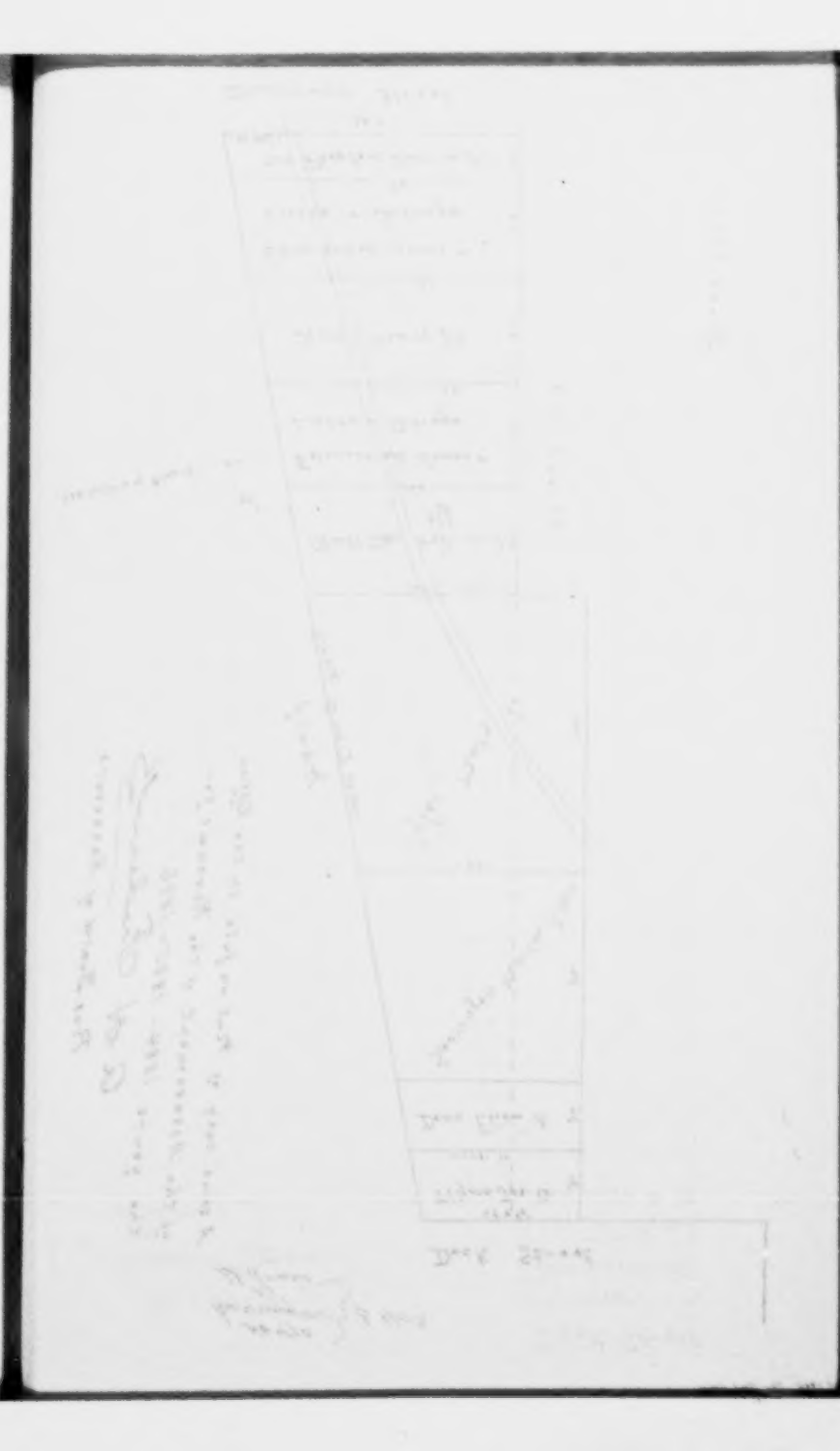
Scott Mary B.

Eppenschied Louis & Liebke & Schrage

Mc Pheeters Sallie B.

Buchanan Street

Block 2544



No. 470
Lemmon
St Louis
p 404

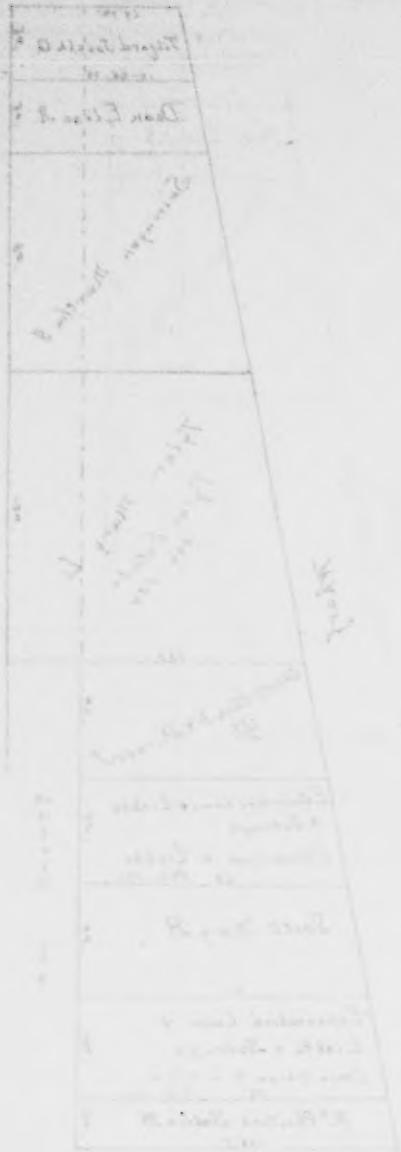
Dock Street

Tilford Joseph G. 50'
Dean Elisha R. 50'
Scarrigan Martha 90'
Tyler Mary V. 120'
Tyler Estate 206-524
Myers
Olcott Chas. H. & Duross J. 97'
Espenschied Louis & Liebke & Schrage 40'
Espenschied & Liebke 48 149-120
Scott Mary B. 40'
Espenschied Louis & Liebke & Schrage 43'
Espenschied & Liebke 84' 149-120
McPheeters Sallie B. 40'
Buchanan Street

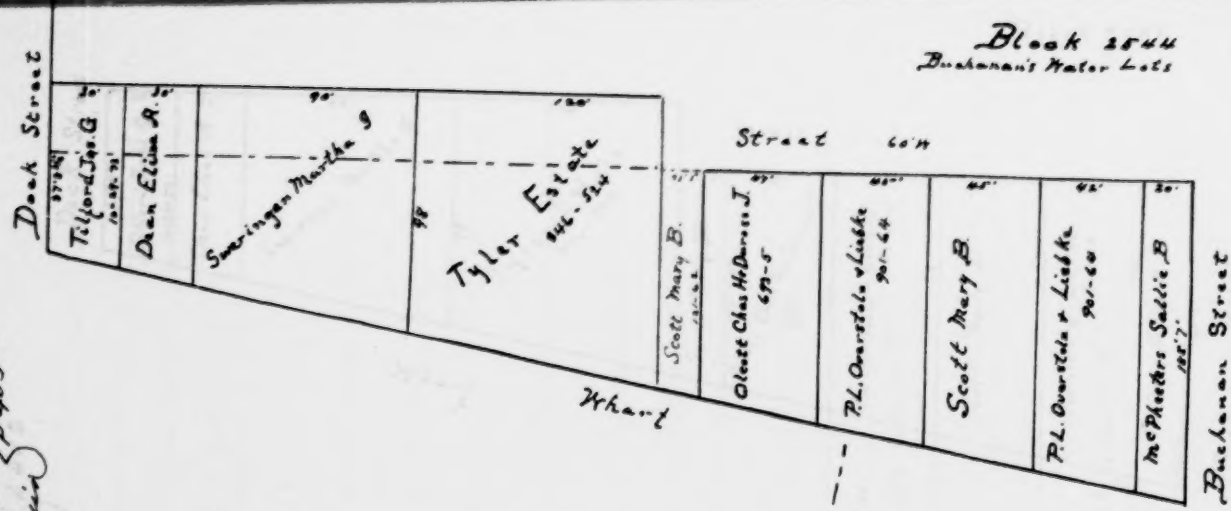
Block 2544
Buchanan's Water Lot

Strand 60'W

A true copy of Plat on file in the Office of the Assessment of the Revenue for the years 1887-1888-1889
G. A. Finkelnburg
Pres. Board of Assessors



2282



Pa 470 Smerigan to Lefevre B 405

A true copy of Plat on file in the Office of the Assessment of the Revenue for the years 1890 - 1891 - 1892

A. H. Frederick

Pres. Board of Assessors.

No 470
Sarrington
St Louis
406

Dock Street

Tillford Josh G
10-28-74

Dean Eliza A

Sarrington Martha J

Ward

Tyler Estate
84-334

Scott Mary B
127-62

Olcott Chas H & Dorris J
673

Street

Overstolz & Liebke
Liebke Christ F

P.L. Overstolz & Liebke
901-64

Scott Mary B

Overstolz & Liebke
Liebke Christ F

P.L. Overstolz & Liebke
901-64

McPheeters Saddie B
2174

Buchanan Street

Block 1544

A true copy of Plat on file in the Office of the Assessment of the Revenue for the years 1893-1894-1895

G. H. Kuhlmann
Pres. Board of Assessors.

407 Cross-examination by Mr. BELL:

Q. Where were you in 1870?
A. In St. Louis.
Q. How old were you?
A. Eight years old.
Q. You knew nothing about these books at that time?
A. No, sir.
Q. Do you know anything about the books now except what you gather from an examination?
A. They are there to look at the books.
Q. None of these books were made by you?
A. None of these.
Q. Was any survey made by you?
A. No.
Q. Do you know of any surveys made in the neighborhood of Dock and the river?
A. No.
Q. Have you personally been on that ground?
A. No, sir.
Q. Do you know anything about the property except what you gather from these books?
A. No.
Q. You have nothing to do with the assessment of property yourself?
A. No, sir.
Q. You are employed simply as a draughtsman?
A. Yes, sir.
Q. You make plats as you are directed to make them?
A. Yes, sir.
Q. In point of fact, you made none of these plats?
A. I worked some on later ones.
Q. These plats referred to?
A. Yes, sir.
Q. Who told you to make an examination of the books in this case?
A. The gentleman over there asked me to get them out?
Q. What is his name?
A. Mr. Allen.
Q. What did he tell you to do?
A. He did not tell me to do anything—just to get the books and see whether the property was assessed east of the wharf.
Q. You looked all through the books?
A. Yes, sir.
Q. Have you looked through anything except the assessment of block named?
A. No.

408 Q. All you know when you say this property has not been assessed is that you see that on the plats containing the block which has been referred—the property is not assessed as being in those blocks?

A. That is all I know about it.

Mr. BELL: I move to strike out the witness' testimony.
COURT: Objection overruled.
We offer now the plats.
Mr. BELL: We object to the books.
COURT: Objection overruled.

We offer the book from 1874 to 1876, the second book for 3 years; all the years up to 1896.
We offer all plat books from 1874 to 1896.
COURT: You now offer them for the purpose of showing what property was assessed, and this property was not assessed.
Mr. BELL: It shows this property was not assessed, this block, because it was not in it.

Mr. BOEDICKER:

Q. Did you ever know of any assessment against city property?

Mr. BELL: I object to that question. What has that got to do with the case?
COURT: Objection overruled.

A. I do; yes.
Q. Did you ever know any assessments against property marked as street or a wharf?

Mr. BELL: I object to the question.
I withdraw the question.

Q. When you find on a plat of the records a piece of property marked street or wharf, did you make any assessment on the property?

Mr. BELL: I object to that. What does that establish?
COURT: Mr. Reporter, these plats you will please mark taken subject to objections.
Objections overruled.
409 Mr. ROBERT: We want to present to your honor a petition to compel these parties to produce all their tax receipts for any taxes paid on any part of strip on their plat # 1. If they object to the books we ask that they be compelled to produce the tax receipts.
Mr. ALLEN: We offer in evidence certified copy of the patent from the Government of the United States to Rufus Easton, dated May 18th, 1826, and certified by S. W. Lamor*anx*, Department of the Interior, District of Columbia.
Mr. JOHNSON: We object to that as irrelevant and not covering any of the land in controversy.
COURT: Objection overruled.
Said copy of the Easton patent was then read and is as follows:

The United States of America to all to whom these presents shall come, Greeting:

Know ye, that Rufus Easton under Gabriel Cerri's representatives has deposited in the General Land Office a certificate numbered one hundred and eighty-three of the recorder of land titles at St. Louis, Missouri, whereby it appears that in pursuance of the several acts of Congress for the adjustment of claims to land, the said Rufus Easton under Gabriel Cerre's representatives has been confirmed in his claim to a tract of land containing one hundred and fifty-six acres and fifty-two-hundredths of an acre, bounded and described as follows, to wit: Beginning at a stone the southwest corner of the survey of four hundred and one-half arpens of land for Pearose; thence south twenty-four degrees; east twenty-five chains and eighty links to a stone, thence south twenty-one degrees east at thirty-six chains and ninety links the old stone corner on the bluff thirty-nine chains and seventy-five links to the Rocky branch, thence meandering down the branch, east six chains, north thirteen chains, north fifty-three degrees forty-five minutes east eight chains and
410 *and* fifty links to a point at the mouth of the branch, thence up the Mississippi river, north ten degrees west, nine chains, north seventeen chains and sixty links to the north bank of a creek, thence up the creek with its meanders north seventy-eight degrees west, three chains, north thirty-five degrees west, three chains, north twenty-four degrees west, ten chains, north eighteen degrees west, fifteen chains, north fourteen degrees, west five chains, and twenty-five links to Penrose's lower corner, a stone, thence with Penrose's line south fifty-five degrees west twenty-seven chains to the beginning; being designated on the connected plats as number two thousand and forty-two and being in township forty-five, north of range seven east of the fifth principal meridian line.

There is therefore granted by the United States into the said Rufus Easton under Gabriel Cerre's representatives and to his heirs the tract of land above described. To have and to hold the said tract with the appurtenances unto the said Rufus Easton under Gabriel Cerre's representatives and to his heirs and assigns forever.

In testimony whereof, I John Quincy Adams, President of the United States have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington the first day of May in the year of our Lord one thousand eight hundred and twenty-six and of the Independence of the United States the fiftieth.

(Signed) J. Q. ADAMS.

By the President:

(Signed) GEO. GRAHAM,
Commissioner of the General Land Office.

411 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *March* 26, 1896.

I, S. W. Lamorenx, Commissioner of the General Land Office, do hereby certify that the annexed copy of patent, dated May 1, 1826, from the United States to Rufus Easton, for certain lands situated within the State of Missouri, is a true and literal exemplification from the record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. W. LAMORENX,
Commissioner of General Land Office.

Mr. ALLEN: Your honor will remember, in response to the application made by defendants you issued an order upon plaintiffs to produce all tax receipts from 1871 to 1895, inclusive. The counsel for plaintiff has handed us a bundle of tax receipts, which appear to be from the year 1875 to and inclusive the year 1895, except the year 1893, and I call your attention to the fact that there are no tax receipts for 1871, 1872, 1873, 1874, and 1893. I ask for their production.

Mr. JOHNSON: We cannot produce anything we cannot find.

Mr. ALLEN: I call your attention to the fact that nowhere on these tax receipts does there appear any description of the property which is sued for in this suit, but that city block 308 east shows the payment of taxes on 90 feet; city block 308, 90 feet on Main street; city block 660, 90 feet on Kennett street; city block 660, east on Kennett street; city block 660 west on Kennett street, and
412 that those last three lots are marked as bounded north by Tyler, east by a line marked do., west by Kennett street, and the lot in city block 660 east north by Tyler, east by line of block marked do., south by do., and west by line of block; city block 660 west is bounded north by Tyler, east by Kennett street, south by do., and west by *pro* Main street. We want to call your honor's attention to the fact that these describe these several parcels as being in certain blocks of the city bounded by the streets. Your honor will remember 308. 660 west is the other side of Kennett street, then 660, then 660 east, and then block 2544, 2544 being bounded on this receipt by the wharf.

Mr. BELL: We want to object to this bill and all bills of a similar character—I believe they are all alike—on the ground that the bill does not include the property sued for in this case.

COURT: I am inclined to think these bills are competent.

Objection overruled.

Said tax bills were then read and are as follows:

(Here follow statements marked pp. 413 to 438, incl.)

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439 Mr. ROBERT: I would like to identify these bills by city book and bill number and year.

Mr. ALLEN: The bill of 1875 is made out against Martha J. Sweringen.

I offer tax receipt for 1876, City Book 22, bill 2176, made out against Martha J. Sweringen, 1877. There appears to be two bills. One of them does not contain the property mentioned, here sued for. It does not contain city block 2544. The other one does contain the ninety feet in city block 2544 and bounded east by the wharf. These two bills for 1877 are made out as being received from Martha J. Sweringen; John N. Herder, agent. For 1878 there are again two bills of the same City Book 22, bill 2289, and the other bill, City Book 22, bill 2288. Bill 2288 contains property in city block 660 east, 660 west, and 660, and the other one, 2289, contains only block 2544, bounded east by the wharf. They are both made out as being received from Martha J. Sweringen. Their- appears still another bill for 1878, containing a large amount of other property, but not containing the boundary of any of this property in 660, 660 E., 660 ", or 2544. It does contain property in block 308 east, the original property, and that is made out against Martha J. Sweringen; John M. Harder, agent.

Then comes the tax bill for 1879, City Book 22, bill 2222, against Martha J. Sweringen; Farrar & Co., agents. They appear for the first time; that is 1879. That contains the property in city block 2544, bounded east by the wharf and boundary of property in block 308 E., 660, 660 E., and 660 W., city bill for 1880, City Book 22, bill 2223, against Martha J. Sweringen; Farrar & Co., agents. That appears to include the property in city block 308 E., 660 W., 660 E., and 660 and city block 2544, last described as being bounded east by the wharf.

The taxes for 1881, City Book 22, bill 2248, against Martha J. Sweringen; Farrar & Co., agents. It seems to include all the
440 property mentioned and block 2544, being bounded east by the wharf.

Then taxes for 1882, City *Block* 22, bill 2348, Martha J. Sweringen; Farrar & Co., agents. That appears to include the entire property, and among them is city block 2544, bounded east by the wharf.

Then, in 1883, there are two bills, one being City Book 22, bill 2580, and the other City Book 22, bill 2583*a*. The first includes a large amount of property, apparently all west of *of* block 2544, but does not include city block 2544. The separate bill 2583 A contains only a description of property in city block 2544, bounded east by the wharf.

Taxes for 1884, City Book 22, bill 2497, against Martha J. Sweringen; Farrar & Co., agents. It seems to include all of the property she paid on, and among it being block 2544, bounded east by the wharf.

Taxes for 1885, City Book 27, bill 1507. There is another bill for 1885, Book 27, bill 1508. In bill 1507 there does not appear to be any of the property, except block 308 east. In bill 1508 there ap-

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pears to include the property in blocks 660, 660 E., and 660 W. and block 2544, bounded east by the wharf.

Bill for 1886, City Book 27, bill 1485, against Martha J. Sweringen; Farrar & Co., agents. It seems to include all of these several blocks, including block 2544, bounded on the east by the wharf.

For 1887, City Book 27, bill 1519 and bill 1518. Bill 1518, against Martha J. Sweringen—Farrar & Co., agents—seems to include none of the property in that region. Bill 1519 includes 308 east, 660, 660 E., 660 W., and block 2544, being bounded east by the wharf.

For 1888, City Book 27, bill 1459 seems to include all property mentioned, and is against Martha J. Sweringen, and block 2544 is bounded east by the wharf.

441 For 1889, City Book 27, bill 1595, against Martha J. Sweringen; Farrar & Co., agents. That appears to include all of the property, and among them being block 2544, bounded east by the wharf.

The 1890, City *Block* 27, bill 1602, against Martha J. Sweringen; Farrar & Co., agents. That seems to be the entire bill for their taxes, and includes city block 2544, bounded east by the wharf.

For 1891, City Book 30, bill 1677, against Martha J. Sweringen; Farrar & Co., agents. That appears to be a bill for all the property, includiug block 2544, bounded east by the wharf.

For 1892, City Book 30, bill 1648, against Martha J. Sweringen; Farrar & Co., agents. This seems to be a complete bill, including — 2544, bounded east by the wharf.

There is no bill for 1893 among those presented.

For 1894, City Book 30, bill 1728. That seems to be a complete bill in itself, including block 2544, bounded east by the wharf, against Martha J. Sweringen; Farrar & Co., agents.

1895. That seems to be complete bill, but there have been changes made, and, amongst them, that *is* in city block 2544, bounded east by the wharf, has a red line through it.

Mr. ALLEN: I understand from counsel that we are to be permitted to inspect and handle these tax bills for any information we desire any time in connection with the argument of the case.

Mr. BELL: That is the understanding.

Mr. ALLEN: And the fact that they have not introduced these bills makes the books in the assessor's office competent to show the same state of facts.

Mr. DRABELLE: For 1871, 1872, 1873, and 1874.

No further evidence offered by defendants.

In Rebuttal.

Dr. W. M. MCPHEETERS, being duly sworn on behalf of plaintiff, testified as follows:

442 Direct examination by Mr. LEVERETT BELL:

Q. What is your name?

A. W. M. McPheeters.

Q. Will you look at this agreement purported to be between Silas Bent and Wm. M. McPheeters, dated April 3rd, 1873, and state whether or not that is your signature.

A. Yes; that is my signature.

Q. State whether or not you had any authority at the time it is purported to be signed to *sing* the name on this paper—any written authority or otherwise.

Mr. ROBERT: We object to the question. It purports to be a title to the land, and a verbal authority could not be given for that purpose.

Mr. BELL: I am asking whether he had authority to represent those parties in executing these papers—if he had any written authority.

A. I was administrator of the Buchanan estate.

Q. How is that?

A. I was administrator of the Buchanan estate and Mr. Bent represented the Tyler estate.

Mr. ROBERT: The only question is whether he had any written authority.

WITNESS: I cannot say I had any written authority.

Mr. BELL: This was made at the time when you were administrator?

A. Yes, sir.

Q. Did you have control of the property at the time?

A. Yes, sir.

Q. Your wife is one of the Buchanans, and the other two are her sisters?

A. There were other heirs I did not represent.

Q. They did not own property along that line, did they?

A. I do not recollect about that.

WITNESS: The cause of this agreement was this——

Mr. ROBERT: There is no question put to the witness and we object.

COURT: Objection sustained.

443 —. Dr., were you authorized by the parties named to make the agreement?

A. I considered myself so.

COURT: Did you have a written authority from these parties?

A. No further than being administrator of the estate.

Q. Administrator or executor?

A. I was executor.

COURT: No further authority than executor of the estate?

A. Yes, sir.

Mr. JOHNSON: Your honor will recollect in reading the will that they had charge, and the testamentary papers showed Dr. McPheeters, as executor, had entire control of the Buchanan estate.

Mr. BELL: We propose to show by the Doctor that these parties were advised as to what they did.

Q. With reference to your acting, signing, for these parties, did they know of it after or before the act, and what action did they take?

Mr. ROBERT: They lived here, but Mrs. Scott did not.

—. Mrs. Scott must have been in writing.
A. She knew I was going to fix the boundary.

Mr. ROBERT: We object to that.
Objection overruled; to which ruling defendants duly excepted at the time.

Q. Were you authorized to make an agreement with reference to boundary?
A. Really I do not recollect whether there was any specific directions by letter or not.

Mr. ROBERT: We object to further testimony.

COURT: Was there anything said about the agreement after it was made?
A. Yes, sir.

COURT: If this agreement does not represent all the Buchanan heirs, it is not competent.

Q. What occurred between you and the parties mentioned after you executed the agreement? What occurred between you and them after the execution of the agreement in regard to this boundary?

444 A. They were informed of it.
Q. State whether they concurred.

Mr. ROBERT: That is a leading question.
COURT: Objection sustained.

Mr. BELL:

Q. Go on, Doctor. You said they were informed.

Mr. ROBERT: I move that answer be stricken out.

Q. If he knows they were informed, give the remainder of the conversation or notified—whatever it was—or the different ones.

Mr. ROBERT: We object to the question as incompetent and irrelevant.

A. I can say this: they have subsequently recognized it.

Mr. ROBERT: We object to the answer.
COURT: Objection sustained.

Q. How did they recognize it?
A. They recognized the boundary.

Mr. ROBERT: We object to the question and answer.
COURT: Objection sustained.

Q. What act have they done or committed?
A. Mrs. Crosby has——

Mr. ROBERT: If there was any sale of land, it must be in writing.
COURT: Objection sustained.

Q. What has been the occupation of the property since this agreement, Doctor, as to this land?

Mr. ROBERT: We object to that question.

Q. State what has been done up there.
A. I think the land has been recognized by the parties—that is, Mrs. Scott and Mrs. Crosby.

Mr. ROBERT: We object to that and move it be stricken out.
COURT: Objection sustained.

Q. Who claims south of the land, Doctor?

Mr. ROBERT: We object to that question as a conclusion.

445 Q. Dr., how has the property south of the land been held?
A. By the Tyler estate.

Mr. ROBERT: We object to that also and move it be stricken out.

COURT: Who has been—state, Dr., if you know, who has been occupying the property south of the line?
A. I do not; Mr. Liebke may have occupied some of it with old logs.
Q. If the court will let him, state the circumstances which lead to the forming of this agreement.

Mr. ALLEN: We object to the circumstances which lead to this agreement.
COURT: I do not think that would be competent.

Cross-examination of witness waived.

Mr. FARRAR was recalled to the stand in rebuttal.

Direct examination by LEVERETT BELL, Esq.:

Q. Mr. Farrar, you were on the witness stand the other day?
A. Yes, sir.
Q. You testified that you had been the agent of plaintiff in this case in regard to the property up there?
A. Yes, sir.
Q. This property in block 308 east, extending eastwardly, since about 1875; I believe you said that?

Mr. ALLEN: We object to that.
Objection overruled; to which defendants duly excepted at the time.

A. I did.
Q. Is that correct?

We object. Objection overruled; to which ruling defendants duly excepted at the time.

A. Yes, sir.

Q. Who paid the taxes on this property; who paid these particular bills that have been produced here this morning?

We object to the question. They show on their face.

446 COURT: Objection overruled.

To which ruling of the court the defendants then and there excepted.

A. I did.
Q. Where were those tax bills kept after payment?
A. I kept them.
Q. Do you know the plaintiff in the case?
A. Yes, sir.
Q. Do you know about her physical condition?

Mr. ROBERT: We object to that question as immaterial.

Mr. JOHNSON: We simply propose to show Mrs. Sweringen is a very old woman and she never attended to any business herself.

COURT: Objection sustained.

Q. I will ask you just one question in regard to what improvements were on these lots 33, 34, and 35, block 306 east.

COURT: My recollection is that was shown.

Mr. JOHNSON: He wants to correct testimony what he said about this.

COURT: If you desire to make a statement you may do so.

A. There was a small shanty on those lots.
Q. How long had it been there?
A. For a long time.
Q. What do you call a long time? Just point out as nearly as you can where this house is that you speak of on plat # 1.
A. I should say about here (indicating a spot in block 308 E.).
Q. How far east of the west line of lots 33, 34, and 35?
A. 50 or 75 feet I should say from memory.
Q. It has been there how long?
A. A long time.
Q. What do you call a long time?
A. It appears to have been there for years. It was an old trap.
Q. When did you first notice it?
A. In 1874 or 1875.
Q. When you first noticed it?

A. Yes, sir; some place around that time.

447 Q. Did you rent that out for the plaintiff?

Mr. ALLEN: We object to the question as leading.

Objection overruled; to which ruling defendants duly excepted at the time.

A. Yes, sir.
Q. How long did you collect rent from there?
A. It was vacant a large part of the time; from time to time.

Cross-examination by CHARLES CLAFLIN ALLEN, Esq.:

—. You first knew of the house on block 308 E. in 1875, or subsequent to that time?

A. Yes, sir.

Q. Was it not prior to that time—1875?

A. No.

Q. Mr. Farrar, are those bills you hold in your hand all tax bills ever paid by Mrs. Sweringen or for Mrs. Sweringen since you had charge of the matter?

A. No.

Q. What bills are there that are nor there?

A. That is hard to answer.

Q. Where are the others?

A. In various places. Mr. Barrett has most of them.

Q. Since 1875?

A. Yes, sir.

Mr. ROBERT: We would like to have you produce them.

Mr. BELL: We have produced all.

Q. Are there any bills covering this property in city block 308, or anywhere east of block 308, between that and the river?

A. I cannot answer except by checking up the books.

This is all the evidence in the case.

Mr. ALLEN: I ask to offer one instruction in both cases—a general instruction that on the evidence under the pleadings and facts the verdicts must be for the defendants. I make this before the argument, so it may be considered before the court.

Wherefore each of the defendants offered an instruction in each of said cases to which such defendant was a party; which instruction was in the following form, to wit:

448 The court declares the law to be that under the pleadings and evidence in this cause the verdict must be for the defendants.

Which instructions the court refused; to which action of the court the defendants then and there duly excepted at the time.

Whereupon the plaintiff prayed the court to give the following instructions or declarations of law:

Instructions Asked for by Plaintiff in Cases Nos. 99865 *and* 99866.

The court declares the law to be that *under* the conveyances read in evidence by plaintiff vested the legal title to lots numbers thirty-three, thirty-four, and thirty-five, described in a portion of said conveyances, in the trustees of Martha J. Sweringen and constituted the owners thereof riparian proprietors. The court further declares the law to be, that any addition made to the land described in the deeds read in evidence by plaintiff to Martha J. Sweringen's trustees by gradual or imperceptible deposits from the Mississippi river, is to be taken and considered, as the same formed, as a portion of the land

described in said deeds, notwithstanding the fact that such addition of land may have been aided or caused by a dike or dikes built in said river by the city of St. Louis.

The court declares the law to be that the deed from the city to Martha J. Sweringen, offered in evidence, does not estop plaintiff from maintaining this action if she can otherwise maintain it. The court further declares the law to be that although plaintiff may have known that a railroad was being built across the premises sued for and failed to object to or protest against the building of the same, that such failure did not deprive her of any right she may otherwise have had to maintain this action.

The court further declares the law to be that the acts and conducts of the respective parties hereto are insufficient to establish an estoppel *in pais* against the plaintiff or to deprive her of any right she may otherwise have had to maintain this action.

449 The court further declares the law to be that although plaintiff may have failed to pay taxes for a number of years on the premises sued for, that such failure did not deprive her of any right she may otherwise have had to maintain this action.

The court further declares the law to be that in order to find that the owner of any part of the premises sued for dedicated the same for the purpose of a wharf or street by matter *in pais*, the proof that the owner intended and consented to make such dedication should be so full and persuasive as to leave no reasonable doubt of such intent and consent, and the acts of such owner relied on to establish such intent and consent must be irreconcilable with any construction except such intent and consent.

The court further declares the law to be that the evidence is insufficient to show that any portion of the premises sued for *were* dedicated for wharf or street.

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The court declares the law to be that under the pleadings and evidence the plaintiff is entitled to judgment for the possession of the following-described premises, situated in the city of St. Louis and State of Missouri and bounded as follows: on the east by the Mississippi river, on the west by a line coincident with the alleged western boundary of the wharf as set forth in ordinance 5403, which line is 90 feet and 9¼ inches in length along northwardly with said alleged wharf line and commences at a point 60 feet and 6¼ inches north of the intersection of the north line of Dock street with said alleged wharf line; on the south by a line parallel to the north line of Dock street produced to the river and 60 feet and 6¼ inches

450 north of the same, and on the north by a line parallel to the south line and 90 feet therefrom; and the plaintiff is also entitled to judgment against the City of St. Louis for $5,000 damages for the detention of said property during the five years pre-

ceding the date of this judgment, and the plaintiff is also entitled to have the value of the monthly rents and profits, established at $100.

Which instruction the court gave; to the giving of which instructions on behalf of the plaintiff the defendants then and there duly excepted.

Thereafter, to wit, on the 2nd day of December, 1896, the court found the issues (in the two cases) in favor of the plaintiff and against the defendant-, and entered the following verdicts of finding and judgment in said cause- respectively, to wit: Cause No. 99865, Martha J. Sweringen *vs.* The City of St. Louis and Justin E. Joy, and cause No. 99866, Martha J. Sweringen *vs.* The St. Louis, Keokuk and Northwestern Railroad Co., to wit:

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vs.
CITY OF ST. LOUIS and JUSTIN E. JOY. } (99865.)

Now, at this day, this cause coming on to be heard, and a jury being waived and the cause submitted to the court on the pleadings and evidence and arguments of counsel for the respective parties, the court thereupon finds the issues in favor of the plaintiff, and doth order, adjudge, and decree that the plaintiff recover of defendants the possession of the following-described premises in the city of St. Louis, Missouri, bounded on the east by the Mississippi river, on the west by a line coincident with the alleged western boundary of the wharf, as set forth in ordinance 5403, which line is
90 feet and 9¼ inches in length along northwardly with said
451 alleged wharf line and commences at a point 60 feet and 6¼ inches north of the intersection of the north line of Dock street with said alleged wharf line, on the south by a line parallel to the north line of Dock street produced to the river and 60 feet and 6¼ inches north of the same, and on the north by a line parallel to the south line and 90 feet therefrom, and that said plaintiff also and further recover damages of the defendant The City of St. Louis in the sum of five thousand dollars for the detention of said property during the five years preceding the date of this judgment and the value of the monthly rents and profits of said property, which is found and established to be the sum of one hundred dollars, and that plaintiff recover her costs in the premises and have execution for the same and the above amounts and a writ of possession for the property.

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vs.
ST. LOUIS, KEOKUK AND NORTHWESTERN RAILROAD CO. } (99866.)

Now, at this day, this cause coming on to be heard, and a jury being waived and the cause submitted to the court on the pleadings and evidence and arguments of counsel for the respective parties, the court thereupon finds the issues in favor of the plaintiff, and doth order, adjudge, and decree that the plaintiff recover of defendant the possession of the following premises in the city of St. Louis,

Missouri: bounded on the west by a line 11 feet east of and parallel with the western line of an alleged wharf, as set forth in ordinance 5403, on the east by a line 40 feet east of and parallel with the western boundary, on the south by a line 60 feet and 6¼ inches north of and parallel with the north line of Dock street produced to the river, and on the north by a line 90 feet *with* of and parallel with the south boundary, together with her costs and charges
452 herein expended, and have execution therefor, and also a writ of possession for the property herein described.

To which judgment and finding of the court the defendant then and there duly excepted at the time.

And thereafter, on the 3rd day of December, 1896, and within four days after the rendering of said verdict and finding and the entry of said judgment, the defendant, The City of St. Louis filed its motion to set aside the verdict and for a new trial, which was as follows:

In the Circuit Court, City of St. Louis, State of Missouri, Room —.

MARTHA J. SWERINGEN, Plaintiff,
vs.
THE CITY OF ST. LOUIS ET AL., Defendants. } No. 99865.

Now comes the defendant The City of St. Louis and moves the court to set aside the verdict and judgment heretofore rendered in said cause and grant a new trial therein for the following reasons:

1. The verdict and judgment are against the evidence and against the weight of evidence and against the law under the evidence.

2. The verdict and judgment *was* for the wrong party.

3. The court erred in admitting incompetent, irrelevant, and immaterial evidence offered by plaintiff and against the objection of this defendant.

4. The court erred in rejecting competent, relevant, and material evidence offered by this defendant.

5th. The court erred in refusing to give this defendant's instruction in the nature of a demurrer to the evidence at the close of plaintiff's case.

6. The court erred in refusing to give this defendant's instruction at the close of the entire case, that on the evidence adduced the plaintiff could not recover.

7. The court erred in giving illegal and improper instruc-
453 tions at the instance of plaintiff.

8. The court erred in refusing legal and proper instructions asked by this defendant.

9. The court erred in giving improper instructions of its own motion.

10. The verdict and judgment are excessive.

11. There was no evidence to support the verdict and judgment.

W. C. MARSHALL,
CHAS. CLAFLIN ALLEN,
Attorneys for said Defendant.

And on said 3rd day of December, 1896, and within four days after the rendering of said verdict and judgment, the defendant, Justin E. Joy, filed his motion for a new trial, which was as follows:

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Comes now the def't Justin E. Joy and moves the court to set aside the judgment rendered herein and for a new trial for the following reasons:

Because the finding and judgment of the court is against the law and the evidence; because the court erred in admitting irrelevant and incompetent testimony and in excluding relevant and competent testimony; because the court wrongly declared the law and refused to declare it aright.

H. M. POLLARD,
Att'y for Def't Joy.

And on the 4th day of December, 1896, and within four days after the entry of said verdict and judgment, the defendant The St. Louis, Keokuk and Northwestern Railroad Co. filed its motion for a new trial as follows:

454 In the Circuit Court of the City of St. Louis, State of Missouri.

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vs.
ST. LOUIS, KEOKUK AND NORTHWESTERN RAILROAD COMPANY.

Now comes the defendant and moves the court to set aside the verdict and grant a new trial herein for the following reasons:

1. That the court admitted, against the objection of the defendant, improper and illegal testimony offered by the plaintiff.
2. That the court rejected, against the objection of the defendant, legal and proper testimony offered by the defendant.
3. The court, sitting as a jury, gave improper and illegal instructions.
4. That the court, sitting as a jury, refused to give proper and legal instructions offered by the defendant.
5. That the verdict is against the evidence.
6. That the verdict is against the law.
7. That the verdict is against the law and the evidence and against the law under the evidence.
8. That the verdict is against the weight of evidence.
8½. That the court erred in refusing to give this defendant's instruction at the close of plaintiff's case, and also erred in not giving said instruction at the close of the entire case.
9. That the court, sitting as a jury, erred in not finding on the pleadings and the evidence submitted thereon for the defendant and not entering judgment for the defendant.

10. That under the law and the evidence the verdict and judgment of the court should have been for the defendant.

E. S. ROBERT AND
JNO. H. DRABELLE,
Att'ys for Defendant.

455 All of which said motions the court continued till the December term, 1896, of said court; and on the 10th day of December, 1896, the court overruled the motions for new trials of the defendants, The City of St. Louis and Justin E. Joy, in cause No. 99865; to which ruling and order of the court the defendants then and there duly excepted at the time.

And thereafter and on the 19th day of December, 1896, the plaintiff and the defendant, The St. Louis, Keokuk and Northwestern Railroad Co., filed the following stipulation in cause No. 99866, to wit:

In the Circuit Court, City of St. Louis, State of Missouri.

MARTHA J. SWERINGEN, Plaintiff,
vs.
THE ST. LOUIS, KEOKUK AND NORTHWESTERN RAILROAD COMPANY, Defendant.

Now comes the parties to the above-entitled cause, by their respective attorneys, and stipulate and agree as follows:

First. That in case the City of St. Louis fails to appeal or, having appealed, fails to prosecute the appeal in the case of Martha J. Sweringen against said city and Justin E. Joy, being No. 99865, division No. 6, of the circuit court of the city of St. Louis, then the motion for new trial in this cause shall be overruled by the then judge of the division of said court in which said cause shall then be pending, to the end that defendant may proceed by appeal or otherwise.

Second. In case said city takes an appeal in said case and prosecutes the same, the said motion for new trial in this case shall be taken off the docket and remain undisposed of until the determination of such appeal by the supreme court, and in case said supreme court reverse and remands said case against said city, then
456 the motion for new trial in this cause shall be sustained by the court and a new trial be granted. In case said supreme court affirms on the merits the judgment of the court in said case against the said city, then the said motion for new trial in this case shall be by the court overruled and final judgment be entered against the defendant for the possession of the property described in the finding of the court, and no appeal therefrom shall be allowed the defendant.

J. H. DRABELLE,
E. S. ROBERT,
Attorneys for Defendant.
E. P. JOHNSON,
LEVERETTE BELL,
Attorneys for Plaintiff.

And that the above matters and things, rulings and exceptions, may be made a part of the record, defendants tender this their bill of exceptions and pray that the same may be signed and sealed as such, which is accordingly done this — day of December, A. D. 1896.

JOHN M. WOOD, [SEAL.]
Judge of said Circuit Court, City of St. Louis, Missouri, in Room No. 6.

And which affidavit and bound for appeal are respectively in words and figures as follows, to wit:

STATE OF MISSOURI, }
City of St. Louis. }

Affidavit for an Appeal.

In the Circuit Court, City of St. Louis, December Term, 1896.

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457 STATE OF MISSOURI, } *ss:*
City of St. Louis, }

Chas. Claflin Allen, one of the attorneys of record for defendant The City of St. Louis in the above-entitled cause, being duly sworn, makes oath and says that he is the agent of the City of St. Louis for the purpose of taking this appeal, and that the appeal prayed for in the above-entitled cause is not made for vexation or delay, but because the affiant believes that the appellant is aggrieved by the judgment or decision of the court.

CHAS. CLAFLIN ALLEN.

Subscribed and sworn to before me this 29th day of December, A. D. 1896.

T. B. RODGERS, *Clerk.*

Know all men by these presents that the City of St. Louis, as principal, is held and firmly bound unto Martha J. Sweringen in the sum of fifteen thousand dollars ($15,000.00); for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated at St. Louis this twenty-eighth day of December, A. D. 1896.

The condition of the above obligation is such that whereas the city of St. Louis has appealed from the judgment rendered against it and in favor of Martha J. Sweringen in the circuit court, city of St. Louis, for the possession of certain premises in said judgment described and the sum of five thousand dollars damages and $100.00 monthly rents and profits, together with costs:

Now, if said appellant shall prosecute its appeal with due dili-

gence to a decision in the appellate court and shall perform such judgment as shall be given by such court or such as the appellate court may direct the circuit court, city of St. Louis, to give,
458 and if the judgment of said circuit court or any part thereof be affirmed and said appellant shall comply with and perform the same, so far as it may be affirmed, and pay all damages and costs which may be awarded against it by any appellate court, then this obligation to be void; otherwise to remain in full force and effect.

Approved in open court this 29th day of December, 1896.

THE CITY OF ST. LOUIS, [SEAL.]
By C. P. WALBRIDGE, *Mayor*. [SEAL.]

Attest: THOS. B. RODGERS, *Clerk*.

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, Thomas B. Rodgers, clerk of the circuit court, city of St. Louis, within and for the city and State aforesaid, do hereby certify that the above and foregoing contains a full, true, and complete transcript of the record and proceedings in the above-entitled cause as fully as the same remain on file and of record in my office.

In testimony whereof I have hereto set my hand and
[SEAL.] affixed the seal of said court this 20th day of August, 1897.

THOS. B. RODGERS, *Clerk*.

And afterwards, to wit, on the 14th day of January, 1899, the following proceedings were had in said cause, viz:

MARTHA J. SWERINGEN, Resp., }
vs. }
ST. LOUIS, App. }

Come now the said parties, by attorneys, and after argument herein, submit this cause to the court.

And afterwards, to wit, on the 15th day of June, 1899, the further following proceedings were had in said cause, viz:

459 MARTHA J. SWERINGEN, Respondent, } Appeal from Circuit Court, City of St. Louis.
vs.
THE CITY OF ST. LOUIS ET AL., Defendants; The City of St. Louis, Appellant. }

Now, at this day, come again the parties aforesaid, by their respective attorneys, and the court here, being now sufficiently advised of and concerning the premises, doth consider and adjudge that the judgment aforesaid, in form aforesaid by the circuit court of the city of St. Louis rendered, be reversed, annulled, and for naught held and esteemed, and that the said appellant be restored to all things which it has lost by reason of the said judgment. It is further

considered and adjudged by the court that the said appellant recover against the said respondent its costs and charges herein expended, and have therefor execution.

(Opinion filed.)

Which said opinion is in words and figures as follows, to wit:

In the Supreme Court of Missouri, Division No. 2, April Term, 1899.

MARTHA J. SWERINGEN, Respondent,
vs.
THE CITY OF ST. LOUIS ET AL., Appellant.

This is an action of ejectment for the following land in the city of St. Louis:

Beginning at a point in the southern line of Buchanan street at the northeast corner of city block No. 2544 of said city, thence southwardly along the eastern line of said block to the southeast corner thereof, thence westwardly along the southern line of said block 150 feet to the southeast corner of city block No. 660 east of said city, thence southwardly to the northeast corner of city block No. 661 east of said city, thence southwardly along the eastern
460 line of said last-named block to the southeast corner of the same in the northern line of Branch street, thence eastwardly along the northern line of Branch street extended to the Mississippi river, to said river, thence northwardly along said river to the southern line of said Buchanan street to said river, and thence westwardly along the southern line of said Buchanan street extended to said river, to the point of beginning.

Ouster was laid as of April 9th, 1891.

As a matter of fact, the land which plaintiff seeks to recover is a part of the North wharf of the city of St. Louis, beginning sixty feet north of Dock street and extending ninety feet wide between parallel lines from the western line of the said wharf eastwardly to the Mississippi river.

The plaintiff claims title to the above tract as an accretion to land patented by the United States to Louis Labeaume and his heirs in confirmation of a Spanish concession to William Christy. There *was* various defences interposed by the city.

The first is predicated upon the fact that inasmuch as the plaintiff has absolutely no sort of paper title to the specific land sued for, but must recover, if at all, upon a showing that this land is an accretion formed by the Mississippi river to her title acquired by mesne conveyances from Louis Labeaume, it is an indispensable prerequisite that she show that Labeaume himself was a riparian owned.

The patent to Louis Lebeaume from the United States is dated March 25th, 1852, and recites a confirmation of survey No. 3333, containing 33.68 acres, and contains a plat which accompanies this opinion, on which the Labeaume survey is indicated within certain pink lines.

So much of the description of the property included in said survey as indicates the eastern lines of said survey nearest the Mississippi river is as follows:

461 "Beginning at a stake set on the right bank of the Mississippi river between high and low water mark and on the extension line produced eastwardly from Labeaume's southern ditch, the lower and most eastern corner of this survey and the upper and most northern corner of the survey of Joseph Brazeau, numbered three thousand three hundred and thirty-two. * * *

(The description then goes inland to the west and north along the line marked in pink on the plat until it reaches a point in the old bed of Rocky branch); * * * thence north 87 degrees and thirty minutes east, at five chains and forty-six links a point at the mouth of the Rocky branch, the northeastern corner of this survey and a corner to the city of St. Louis, it being the northern termination of the northwestern boundary line thereof. From this corner, which is marked F on the plat, the northwest corner of Second or Main street and Dock street bears south thirty-seven degrees fifteen minutes west, distant seven chains and seventy-one links, and the point of intersection of the aforesaid city line with the southern edge of Dock street bears south twenty-two degrees west, distant six chains and sixty-one links, which point of intersection is two chains and eight links north, sixty-nine degrees east from the southwest corner of Dock street and Second or Main street. From the corner F down the right bank of the Mississippi river, with the meanders thereof, between high and low water mark, south nine degrees east, at eight chains and sixty-six links a stake; thence south twenty-one degrees east at five chains and fifty links a point, from which offset north seventy degrees east one chain and eighty-three links to the center of the water of the Rocky branch as running through the sand beach six chains and sixty-three links to the bluff of the sand beach seven chains and forty-seven links to the water's edge of the Mississippi river; return to the meandering line; at ten chains a post, from

462 which the southeast corner of a stable bears south forty-two degrees west, distant forty-six links, and the upper point of the entrance of the water of the Rocky branch into the Mississippi river bears south sixty-two degrees and thirty minutes east, distant sixteen chains; thence south thirty-four degrees east, at seven chains 5 links the eastern extension of Labeaume's northern ditch, from which the corner marked D on the plat bears north seventy-four degrees and thirty minutes east, distant nineteen chains and seventy-five links; at twenty-five chains a stake; thence south twenty-three degrees east, at thirteen chains and sixty-seven links the northeast corner of Robertson and Patterson's saw-mill, at fourteen chains and 8 links the southeast corner of said mill, at twenty chains and fifty-seven links the southeast corner of Hendrick's flour mill, nineteen links to the right; at twenty-three chains and thirty-five links the northeast corner of Cochran's saw-mill, thirty chains and 95 links to the beginning corner."

To the introduction of this patent defendant objected, because on its face and by the plat attached to it and made a part of it the prop-

erty thereby conveyed did not extend to the Mississippi river, but only to a well-defined and permanent boundary which began at a fixed stake "between high and low water mark" and continued with the meanders of the river "between high and low water mark" from the mouth of Rocky branch on the north to the point of beginning on the Braceau survey.

This objection was overruled, and defendant duly excepted.

It is fundamental in the law of accretions that the lands to which they attach must be bounded by the river or stream to entitle its owner to such increase.

The doctrine is one of compensation. The reason of the law is that every owner of land bounded by a stream of water is subject by reason — the gradual changing of the course thereof to lose a
463 portion of his land or have the same increased in quantity by the accumulation thereto, and inasmuch as he is wholly without remedy if a loss occurs, eating away his banks, he is entitled to whatever increase also that is caused by the gradual accretion or reliction.

In the very nature of things, then, accretions depend upon actual contiguity. Any separation of the claimant's land from the accumulated alluvion by the lands of another, however narrow the intervening strip may be or whatever the size of the claimant's tract behind it. 1 Amer. & Eng. Enc. of Law (2 ed.), 473, note 2 and cases cited; Gould on Waters, sec. 155, note 1; Ellinger *vs.* Mo. Pac., 112 Mo., 204; Smith *vs.* St. Louis, 21 Mo., 36.

Now, in the patent to Lebeaume the river is not mentioned as a boundary. On the contrary, the eastern boundary is a permanent line, fixed by course and *siatnces*, metes and monuments, "between high and low water mark," and the accompanying survey exhibits a tract of fourteen acres or more between the eastern boundary of the survey and the river itself.

To the east of the pink line, which borders the survey of 1852, lies a larger "sand beach," which separates the river from the Labeaumes survey.

We are unable to agree with counsel for plaintiff that the plat to the patent carries the north line of the survey by a dotted line across the said beach. On the contrary, we think it is plain that this dotted line from the point "F" marks the then northern limits of the city and not of this survey. The plats and the language of the surveys alike brings us to this conclusion. It follows that the effort to bring this case within the doctrine of Shelton *vs.* Maupin, 16 Mo., 126, must fail, because there is no evidence that the lines of this survey ever run to the river.

464 Whatever may have been the original Spanish concession, the survey and patent made under the confirmation in 1852 must control as to the extent of Labeaume's right. Smith *vs.* St. Louis, 21 Mo., 36.

A great number of cases decided by this court are cited by the plaintiff to sustain her claim that the call for the eastern boundary constitutes the grantees in the Labeaume patent riparian owners. Lebean *vs.* Garen, 37 Mo., 556; Perkins *vs.* Adams, 132 Mo., 131;

Tatum *vs.* St. Louis, 125 Mo., 647; Crandall *vs.* Allen, 118 Mo., 403; Naylor *vs.* Cox, 114 Mo., 232, and others.

A very cursory reading will demonstrate that in each of these cases the river itself was a boundary line, and no other lands intervened between the river and the riparian claim. A case strikingly in point is Dunlap *vs.* Stetson, 4 Mason (C. C.), 349, decided by Judge Story.

The contest in the case grew out of the description of the deed of Budge to McGlathry. The description was as follows: "A certain lot of land lying and being in Bangor, on Condeskeig point, so called, bounded and described as follows, to wit: Beginning at a stake on the west bank of Penobscot river, near a thorn bush marked on four sides, running north eleven rods to a stake and stones, thence southerly to a stake and stones, a corner; thence south nine rods to a stake and stones on the bank of the same river, thence running on the western bank to high-water mark sixteen rods to the first-mentioned bounds, with all the privileges of water and landing to the same belonging.'"

The colonial act of Maine, 1641, gave the proprietor of lands in all coves, creeks, about and upon salt water propriety to the low-water mark "where the sea doth not ebb above one hundred yards and not more where it ebbs further."

The question was whether McGlathry by the foregoing de-
465 scription took as riparian owner the flats in front of the land described in the deed or whether he was limited to high-water mark on the western bank of the Penobscot. The court held he did not take, as a riparian owner, the lands in his front, saying: "It is to be observed that it is not a deed bounding the grantee on the river or the stream of the river generally, where the flats might pass by implication, but the boundaries are specific and definite."

There, *is* in this case, the front line was restricted to the definite surveyed line, not to the river itself.

Here it is the specific line between high and low water mark, and cannot be extended to the large area then and now existing between that line and the river itself.

So, in Cook *vs.* McClure, 58 N. Y., 437, the court of appeals conceded, for argument sake, that where a boundary line was the bank of a pond the doctrine of accretion would apply, yet where the line, instead of being the pond itself, was a line "commencing at a stake near the high-water mark of the pond and running thence along the high-water mark to the upper end of the pond," it was held such a line was a fixed and permanent one and did not change as the water rose or receded, and consequently was not entitled to accretions.

But we need go no further than our own decisions.

In the case of Smith *vs.* St. Louis Public Schools, 30 Mo., 290, this whole question was thoroughly examined and discussed in the light of Spanish and French law, and it was held that the doctrine of accretion was inapplicable to what are termed limited fields—that is, such as have a definite boundary line other than the river—and in that case it was held that where a street was dedicated to the

public between the lot and the river the right of accretion did not attach to the lot, and the street fixed the boundary of the lot. That case has since been uniformly followed by this court. Ellinger vs. Railroad, 112 Mo.

466 The tract in this case was confirmed not only by fixed boundaries other that the river, but the exact number of acres was specified within that survey, and that survey, as to its quantity, excludes all idea that the United States was granting the fourteen or more acres lying outside of that survey at the time it was made.

The surveyor, moreover, says that Soulard's survey did not describe the meanders of the Mississippi or of Rocky branch, and it was impossible to determine whether the difference in area was the result of miscalculation by Soulard or by the accretions; but, whatever the cause of the discrepancy, the United States confirmed the last survey, which nowhere calls for the river as a boundary; and by that patent all these questions must be held to be forever settled.

Our conclusion is that, as Labeaume was not a riparian owner, his heirs or grantees cannot recover the tract in suit as an accretion.

The court therefore erred in admitting the patent as any evidence of title to the land in suit, as it did not purport to convey it to Labeaume.

Plaintiff, then, having no paper title to the land in suit, is remitted to an actual, continuous adverse possession of the tract as her basis for recovery. She has no color of title by which her possession of a part can extend to the whole.

What evidence, then, is there in the record of such possession as would ripen into a title? By the form of her action she admits the possession of defendant, and the defendant in possession may rest upon that possession until plaintiff exhibits a better title. Plaintiff must recover upon the strength of her own title and not upon the insufficiency of the defendant's.

467 Plaintiff has shown no continuous, if any, possession of the property in suit. There is not a pretense that the same was ever enclosed by a fence, or that plaintiff had any buildings or permanent structure of any kind or character on this particular land.

There is no proof of any actual ownership or claim thereof in the record.

On the contrary, the proof appears quite conclusive that she recognized the city's right to a wharf. The plat which she introduced to show the mutual agreement between Mrs. Tyler, by Silas Bent, on one side, and Sallie McPheeters, Mary B. Scott, and Julia Crosby, by W. M. McPheeters, shows, among other things, that in 1873 the 90 feet herein sued for *was* designated on the plat as an extension of lots 33, 34, and 35, and the prolongation brought it to another tract marked "wharf," and there it terminated. This tract was marked Mrs. Martha T. Sweringen.

On the trial plaintiff's counsel distinctly announced they would

be bound by this map or plat. In a word, twenty-two years before the commencement of this action it appears this land was a part of a public wharf, and none of the persons who had that property surveyed were making any claim to the land in dispute in this action. Another significant fact is this: Kennett, now Hall, street was opened by condemnation proceedings in 1870. This street is east of plaintiff's original lots. The property east and west of Kennett street, which is within the extended side lines of plaintiff's original lots, was platted and treated as the property of the Tyler and Buchanan heirs, and Liebke and Schrage were made parties to the proceedings—lessees of the Buchanan heirs. Damages were assessed in favor of the Tylers and Buchanan. Plaintiff Mrs. Sweringen was made a party to that suit, and benefits were assessed against her lots in block 308 E. to pay the assessment to the Tylers and Buchanans, and they were sold to — and afterwards, in 1879, plaintiff — her lots from the city.

468 Notwithstanding all this property was platted as belonging to others and that she was served with process, she permitted those proceedings to go without objection. Neither plaintiff or her agents made the slightest claim of ownership of this tract at that time.

The tax receipts disclose that since 1874 the plaintiff did not pay on the land sued for. She did return her property west of the wharf line, in block 2544, but the receipts do not corroborate the oral testimony that she paid on the tract in suit, but most clearly disprove it.

Her receipts show the land on which she paid was bounded on the east by the wharf, and neither the plaintiff or her agents objected to such a description.

So much for the negative aspect of her adverse possession.

The affirmative proof was as follows:

J. V. S. Barrett, a grandson of plaintiff, testified in connection with a plat prepared by Joyce that in 1868 or 1869, when about eight years old, he went with his grandfather Sweringen and Capt. Silas Bent to the tract in suit to have it surveyed. He testified that Mrs. Sweringen had a house on her lots west of this tract. Squatters had shanties on it up to December, 1890; plaintiff had absolutely no improvement of any kind on this particular property. It is true, he says, Mrs. Sweringen paid taxes to the river, but as her tax receipts produced on the demand of defendant shows that from 1874 to 1895, inclusive, she paid on no property east of city block 2544, he is obviously mistaken.

Mr. Chas. T. Farrar testified that he had charge of plaintiff's property from Second street to the river from 1875 to the trial, and paid her taxes. On several occasions he put some squatters off of the land east of city block 2544 since the railroad was built, and Mr. Joy had taken possession. Joyce testified he had surveyed

469 the ground marked on plat No. 2 at the request of plaintiff's attorneys, and this property was then designated on the plat as bounded by the wharf on the east. He had extended the green

lines down to the river three or four days before the trial at the request of plaintiff's attorneys.

Various tax receipts from 1857 to 1870 were introduced.

Taking the various descriptions, the width, and the depth, it would seem that prior to 1870 plaintiff did not pay taxes east of Main street. But, conceding the full force of this evidence as to the payment of taxes on this vacant land and the sporadic expulsions of squatters on the sand beach, it is settled law in this State that the payment of taxes of itself does not show possession of land or create title. Chapman *vs.* Templeton, 53 Mo., 463; Cashman *vs.* Cashman's Heirs, 123 Mo., 647.

Equally unavailing was the occasional disturbance of the squatters by Mr. Farrar.

It was ruled in Pharis *vs.* Jones, 122 Mo., 125, and 26 S. W., 1032, that payment of taxes, cutting timber thereon, and keeping off trespassers did not constitute possession.

It follows that plaintiff introduced no evidence to show possession or seizen of the tract sued — within ten years before the commencement of her action, and the circuit court erred in not so holding, as plaintiff had no paper title drawing to her the possession.

In view of this conclusion, we do not deem it necessary to enter upon a discussion of various other incidental questions which arose in the case.

In our opinion, there was no evidence to sustain the judgment of the court, and it is accordingly reversed.

Sherwood and Burgess, JJ., concur.

JAS. B. GANTT, *J.*

470 And afterwards, to wit, on the 24th day of June, 1899, the further following proceedings were had in said cause, viz:

M. J. SWERINGEN, Resp.,
vs.
CITY OF ST. LOUIS, App.

Come now the said respondents, by attorneys, and file their motions for rehearing herein.

Which said motion for rehearing is in words and figures as follows, to wit:

In the Supreme Court of Missouri, Division No. 2.

MARTHA J. SWERINGEN, Respondent,
vs.
CITY OF ST. LOUIS, Appellant. } No. 8524.

Motion for Rehearing.

Now comes the respondent herein and moves the court to grant her a rehearing in this cause, and for special reasons therefor alleges the following:

The court overlooked questions decisive of the case, duly sub-

mitted by counsel, the particulars of which are hereinafter fully set forth.

E. P. JOHNSON AND
THOS. O. RUSSELL,
Attorneys for Respondent.

First. The court overlooked the fact that by the patent to Lebeaume's legal representatives of U. S. survey No. 3333 the tract of about fourteen acres of ground is, by the specific words of the patent, located within said survey, granted as accretions to the Spanish concession by said patent, and the accretions so granted are bounded therein on the east by the Mississippi river in express' terms (and a statement is made that the accretions are rapidly
471 forming), instead of being located between said survey and said river, as stated in the opinion herein, as witness the following quotation from said patent, wherein the difference of excess of land contained in said survey No. 3333 and Soulard's survey of the Spanish concession is explained (Rec., p. 35):

"*Remarks.*

The survey of this tract, as made by A. Soulard in March, one thousand seven hundred and ninety-nine, and recorded in 'Register d'arpentage' one hundred and thirty, a copy of which is attached hereto, represents the area thereof to be three hundred and seventy-four arpens, there being twenty-five arpens and thirty-hundredths of an arpen, equal to twenty-one acres, and fifty-two-hundredths of an acre less than found by this survey, but as no notes of Soulard's survey describe the meanders of the Mississippi river and of the Rocky branch, the former bounding the tract on the east and the latter in part on the north, there are therefore no means to ascertain whether the difference or excess in the area of this survey over that given by Soulard is owing to a miscalculation by said Soulard or to the subsequent accretion along the bank of the Mississippi river since Soulard's operations. This accretion appears to be rapidly advancing; that portion of the tract eastward of the high bank, shown topographically on the foregoing plat, the top of which is designated by the dotted lines *a*, *b*, *c*, *d*, *e*, and *f*, appears to be the accretion since Soulard's times, and contains about fourteen acres."

Were it not stated in the foregoing that this tract of about 14 acres is a part of the twenty-one acres and fifty-two-hundredths of an acre of the excess of land contained in U. S. survey No. 3333 over the amount of land contained in Soulard's survey of the Spanish concessions, then a question might be raised on the words quoted as to whether the tract of about fourteen acres was not east
472 of the east line of U. S. survey No. 3333 (as stated in the opinion) and bounded (the 14 acres) on the east by the Mississippi river; but as this fourteen-acre tract is included in U. S. survey No. 3333 in express words, and in equally express words is bounded on the east by the Mississippi river, it necessarily follows

that U. S. survey No. 3333 is in like manner in express words bounded on the east by the Mississippi river.

Second. Again, the opinion on the second page of the typewritten copy correctly quotes from the field-notes of the survey at some length, a short quotation from which is sufficient for our purpose, as follows: "Reaches a point in the old bed of Rocky branch, * * * thence north 87 degrees and 30 minutes, at 5 chains and 46 links, a point at the mouth of the Rocky branch, the northeastern corner of this survey, and a corner to the city of St. Louis, it being the northern termination of the northwestern boundary line thereof." From the corner which is marked F on the plat, * * * "down the right bank of the Mississippi river, with the meanders thereof, between high — low water mark," giving courses and distances to the place of beginning.

The first point to which we call attention in connection with this quotation is that the court overlooked the meaning of the call of "a point (*f*) at the mouth of Rocky branch," for the reason that a call for a point at the mouth of Rocky branch necessarily carried the line to the river, as the branch could have no mouth until it reached the river. By the call in this quotation for the right bank of the river is meant the then existing bank next the water, as the old banks are referred to in the above-quoted remarks from the patent, and are delineated on the plat (Rec., p. 18) by the etchings, and which old banks are a considerable distance west of the east line of the survey and west of the fourteen-acre tract. These etchings show two old banks,
473 from north to south, for about half the width of the survey, where they join, and are stated in the remarks quoted to be "designated by the dotted lines (etchings) *a*, *b*, *c*, *d*, *e*, and *f*," but which letters are now illegible, the patent being very old and worn, having gone through the Maguire *v.* Tyler litigation, or the letters were omitted from the copy of the plat in the patent; and, further, by the whole of this call, "from the corner *f* down the right bank of the Mississippi river, with the meanders thereof, between high and low water mark," is meant as near low-water mark as the surveyor could conveniently run his line, and it is equivalent to any of the expressions "by," "with," "along," or "on" the river. This view is further enforced by the two or three very fine lines, broken at short intervals, and drawn immediately east of the east line of the survey on the plat and which represent the then line of the water of the river. Such lines are termed "water waves" by civil engineers. These lines show that there was not and could not be any land between the east line of the survey and the river; but this is not all, as the sand beach is marked on the plat, in plain words, "Mississippi river," and an arrow is marked on this sand beach, showing the course of the water over it—but even these are not all. Taking up the plat (Rec., p. 18) and placing a rule on it along the dotted line across the sand beach on the north, and we find that the dotted line is drawn in the exact direction of the last line in the plat that reaches point F, and the former line would be an extension of the

latter line in a direct course, except that the former line seems to have been drawn from a point on the south side or bank of the branch and the latter line from a point on the north side or bank of the branch. Recurring now to the quotation from the opinion, for convenience, the call reaching point *f* is "north 87 degrees and 30 minutes, at 5 chains and 46 links." This call of north 87 degrees and 30 minutes makes the last call in the patent run at an
474 angle 2½ degrees north of east, and the dotted line over the beach runs in the same direction, and therefore at an angle of 2½ degrees north of east, and cannot be the north boundary line of the city, as stated in the opinion, as the latter line runs due east. This dotted line is not necessary to show that the plat extends to the river, and is merely cumulative evidence to that effect.

The call for the Mississippi river as a boundary on the east of the survey, as called for in the remarks in the patent, would "control courses, distances, the designated quantity, or the corners, monuments, and meander lines of the survey," if there were any such discrepancies in this survey; but there are no such discrepancies in it, and when a patent "shows a river to be one of the boundaries of the tract, it is a legal deduction that there is no vacant land left for appropriation between the river and the river boundary of such tract."

Sec. 194, Gould on Waters.

The call in the patent "down the right bank of the Mississippi river, with the meanders thereof, between high and low water mark," we contend, is equivalent to a call "by," "with," "along," or "on" the river, and as there are no other terms limiting the former call, it carried the survey to the river, and this would be true if point "*f*," at the mouth of Rocky branch, from which the call starts, were simply a call for a monument on the bank, instead of being, as it is, a point east of all banks, and certainly a long way east of two banks, as shown by the etchings on the plat, which are referred to and located in the patent.

Sec. 197, Gould on Waters.

The plat of the survey went to the river, as we think we have demonstrated, and that gave riparian rights.

Shelton *vs.* Maupin, 16 Mo., 124.

Bates *vs.* Illi's Cent. R'd, 66 U. S., 204.

475 The importance of the ruling herein asked to be reviewed does not fully appear at first glance from this case, notwithstanding the fact that it does plainly appear herein that the title to four blocks of ground, Nos. 2544, 660 E., 660, 660 W., and a portion of block No. 308 E. lying west of the premises sued for (plat 1, Rec., p. 164) will be invalidated by it. But this is a mere drop in the bucket compared with the millions of dollars worth of (mostly improved) private property lying south of the above-named blocks, the titles to all of which depend upon the question of riparian rights decided herein and will be invalidated by it, and we therefore ask

the indulgence of the court for this lengthy and minute presentation of these facts.

Respectfully submitted.

E. P. JOHNSON AND
THOS. A. RUSSELL,
Att'ys for Resp.

In the Supreme Court of Missouri, Division No. 2.

MARTHA J. SWERINGEN, Respondent,
vs.
CITY OF ST. LOUIS, Appellant. } No. 8524.

To the above-named appellant:

Take notice that the respondent herein will file a motion for a rehearing of this cause, of which the foregoing is a copy.

E. P. JOHNSON AND
THOS. A. RUSSELL,
Attorneys for Respondent.

And afterwards, to wit, on the 3rd day of July, 1899, the further following proceedings were had in said cause, viz:

476 MARTHA J. SWERINGEN, Resp.,
vs.
ST. LOUIS, App.

Now, at this day, the court having fully considered and understood the motions, heretofore filed, for rehearings herein, doth order that said motions be, and the same are hereby, denied.

And afterwards, to wit, on the 3rd day of October, 1900, the further following proceedings were had in said cause, viz:

MARTHA J. SWERINGEN, Respondent,
vs.
CITY OF ST. LOUIS ET AL., Appellants.

Now, at this day, there is presented to Hon. James B. Gantt, chief justice of the supreme court of the State of Missouri, in chambers, a writ of error to the Supreme Court of the United States and a citation, directed to said appellants, citing and admonishing them to appear at a Supreme Court of the United States on the 2nd day of November, 1900; which said writ of error is allowed and said citation signed.

And afterwards, to wit, on the 22nd day of October, 1900, the further following proceedings were had in said cause, viz:

MARTHA J. SWERINGEN, Respondent,
vs.
CITY OF ST. LOUIS ET AL., Appellants.

Now, at this day, there is presented to the Honorable James B. Gantt, chief justice of the supreme court of Missouri, in chambers,

an assignment of errors and a bond in the sum of three thousand dollars; which said assignment of errors is filed and said bond approved, ordered filed, and made a part of the record herein.

Which said assignment of errors is in words and figures as follows, viz:

477 Supreme Court of the United States, October Term, 1900.

MARTHA J. SWERINGEN, Plaintiff in Error,
vs.
THE CITY OF ST. LOUIS and JUSTIN E. JOY, Defendants; THE City of St. Louis, Defendant in Error.

Comes now Martha J. Sweringen, plaintiff in error, by her counsel, and respectfully represents that she feels herself to be aggrieved by the proceedings and judgment of the supreme court of the State of Missouri in the above-entitled cause, and assigns error thereto as follows:

1. The court erred in said cause in deciding that the court below erred in admitting the patent to Louis Labeaume or his legal representatives in evidence as any evidence of title to the land in suit in said cause.

2. The court erred in said cause in construing the United States patent to Louis Labeaume and in deciding that the patent to Louis Labeaume or his legal representatives did not purport to convey the land in suit in said cause.

3. The court erred in said cause in deciding that said Louis Labeaume was not a riparian owner, and that his heirs or grantees could not recover the tract of land in suit as an accretion in said cause.

4. The court erred in said cause in deciding that the plaintiff in error had no paper title to the land in suit in said cause.

5. The court erred in said cause in deciding that the court below erred in overruling the objections of defendants to the patent to Louis Labeaume or his legal representatives as irrelevant and immaterial and not tending to support the issue in said cause and not showing the plaintiff was a riparian owner and admitting
478 said patent in evidence in said cause.

6. The court erred in said cause in deciding that there was no evidence to sustain the judgment of the court below in said cause.

7. The court erred in said cause in reversing the judgment of the court below in said cause.

8. The court erred in said cause in rendering judgment in favor of the defendants in said cause.

Wherefore the said plaintiff in error prays the honorable court to examine and correct the errors assigned and for a reversal of the judgment of the supreme court of the State of Missouri entered in the above-entitled cause, and for an affirmance of the judgment of

the court below, the circuit court of the city of St. Louis, Missouri, in said cause.

MARTHA J. SWERINGEN,
By E. P. JOHNSON AND
THOS. A. RUSSELL AND
G. A. FINKELNBURG,
Her Attorneys.

Which said bond is in words and figures as follows:

Know all men by these presents that we, Martha J. Sweringen, S. Harper Barret, and Thomas A. Russell, are held and firmly bound unto the City of St. Louis in the full and just sum of three thousand dollars, to be paid to the said City of St. Louis, its successors or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this third day of October, in the year of our Lord one thousand nine hundred.

Whereas lately, at the April term, A. D. 1889, of the supreme court of the State of Missouri, in a suit depending in said court between Martha J. Sweringen, plaintiff and respondent, and The City of St. Louis and Justin E. Joy, defendants, and the said City of St. Louis, appellant, a judgment was rendered against the said Martha J. Sweringen, and the said Martha J. Sweringen has obtained a writ of error of the Supreme Court of the United States to said court to reverse the judgment in the aforesaid suit and a citation, directed to the said City of St. Louis, citing and admonishing said City of
479 St. Louis to be and appear in the Supreme Court of the United States, at the city of Washington, thirty days from and after the date of said citation:

Now, the condition of the above obligation is such that if the said Martha J. Sweringen shall prosecute said writ of error to effect and answer all costs if she fail to make good her plea, then the above obligation to be void; else to remain in full force and virtue.

MARTHA J. SWERINGEN. [SEAL.]
S. HARPER BARRET. [SEAL.]
THOS. A. RUSSELL. [SEAL.]

Sealed and delivered in presence of—

——— ———.

Approved by—
JAS. B. GANTT,
Judge and Chief Justice of the Supreme Court of the State of Missouri.

STATE OF MISSOURI, *sct:*

I, Jno. R. Green, clerk of the supreme court of the State of Missouri, certify that the foregoing is a full, true, and complete transcript of the record and proceedings in the case of Martha J. Swer-

ingen *vs.* The City of St. Louis as fully and complete as the same appears on file and of record in my said office

In witness whereof I have hereunto set my hand as clerk and affixed the seal of said court.

Seal of the Supreme Court of Missouri.

Done at office, in the city of Jefferson, this 24th day of October, A. D. 1900.

JNO. R. GREEN, *Clerk.*

480 JEFFERSON CITY, MO., *Oct.* 1, 1900.

Mr. E. P. Johnson, St. Louis, Mo., to John R. Green, clerk supreme court, Dr.

To making transcript in case of Swearengen *vs.* St. Louis *et al*... 350.00

Rec'd payment of Thos. A. Russell, trustee, Oct. 2d, 1900.

JNO. R. GREEN, *Clerk.*

Endorsed on cover: File No., 17,955. Missouri supreme court. Term No., 470. Martha J. Sweringen, plaintiff in error, *vs.* The City of St. Louis. Filed October 31st, 1900.